

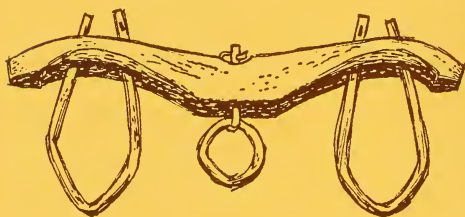
Lincoln
Jefferson Davis

THE HOUSE DIVIDED

MEN AND ISSUES IN AMERICAN HISTORY

LINCOLN ROOM

UNIVERSITY OF ILLINOIS
LIBRARY



MEMORIAL

the Class of 1901

founded by

HARLAN HOYT HORNER

and

HENRIETTA CALHOUN HORNER

Lincoln
Jefferson Davis

THE HOUSE DIVIDED

The Series:

MEN AND ISSUES IN AMERICAN HISTORY

Lincoln / Davis: THE HOUSE DIVIDED *by David Lindsey*

Carnegie / George: THE PROBLEMS OF PROGRESS *by John Tipple*

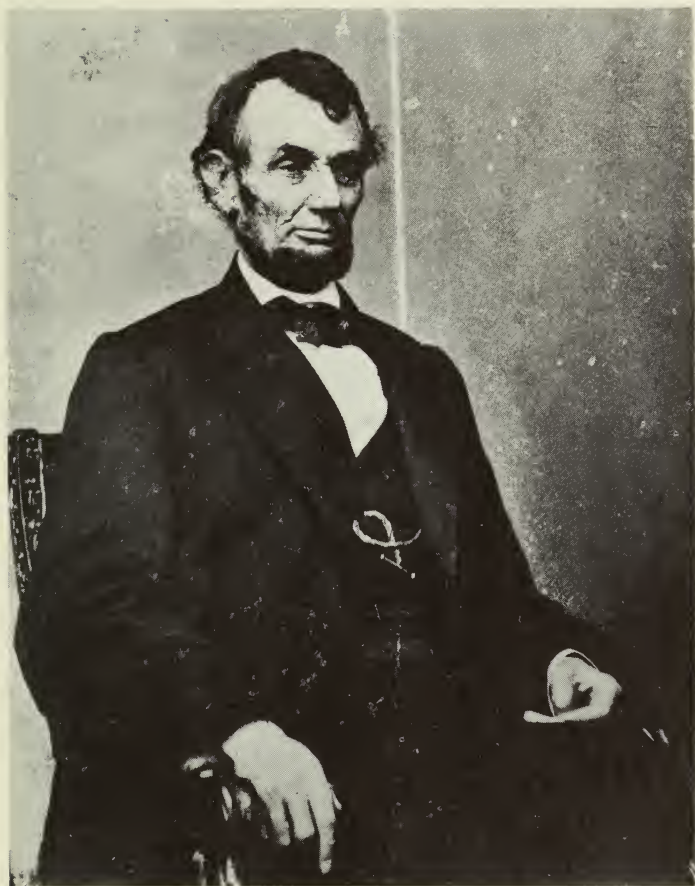
Hoover / Roosevelt: COMPARISONS AND CONTRASTS *by Edward O.
Guerrant*

In preparation:

Jefferson / Hamilton

Jackson / Calhoun

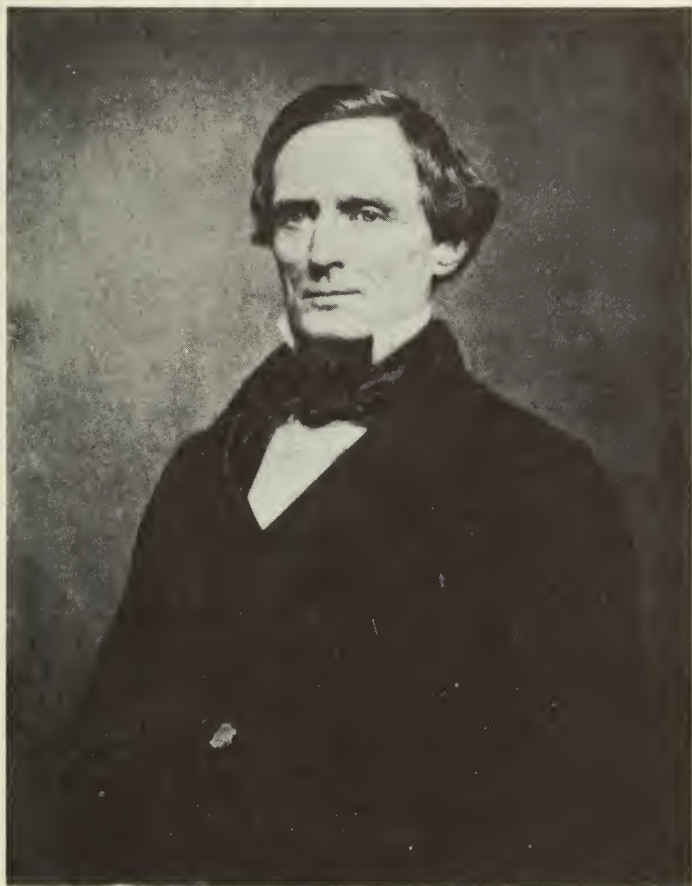
Wilson / Roosevelt



A. Lincoln



Digitized by the Internet Archive
in 2012 with funding from
University of Illinois Urbana-Champaign



Jefferson Davis

by DAVID LINDSEY

Ohio's Western Reserve: The Story of Its Place Names

"Sunset" Cox: Irrepressible Democrat

Abraham Lincoln
Jefferson Davis

THE HOUSE DIVIDED

by

John Tipple

LOS ANGELES STATE COLLEGE
OF ARTS AND SCIENCES

HOWARD ALLEN, INCORPORATED



Cleveland

© David Lindsey

All rights reserved

Permission to reprint materials from
this book, other than the quotations
from Mr. Lincoln and Mr. Davis, must

be obtained from the publishers:

Howard Allen, Inc., Publishers

*Box 1810, University Center Station
Cleveland 6, Ohio, U.S.A.*

ACKNOWLEDGMENTS

The author and the publishers gratefully acknowledge the courtesy of The Confederate Museum of Richmond, Virginia, and The Library of Congress, Washington, D.C., for providing copies of photographs of Mr. Davis and Mr. Lincoln.

The courtesy, too, of the Rutgers University Press and The Mississippi Department of Archives and History is also acknowledged for their permissions to quote extensively from *The Collected Works of Abraham Lincoln*, ed., Roy P. Basler and *Jefferson Davis, Constitutionalist: His Letters, Papers, and Speeches*, ed., Dunbar Rowland.

FIRST PRINTING

Library of Congress Catalog Card Number 60-16762

Manufactured in the United States of America

973.7 Lincoln Room
L64a

f o r

Augusta and David Scott

Contents

I SETTING AND PERSONAL BACKGROUND

The United States from 1830 to 1850 / 1

Lincoln and Davis: Their Early Years / 12

II IDEAS AND BELIEFS

Man and Society / 21

Government and Democracy / 26

The American Economy / 36

The Union / 48

III PROBLEMS AND ISSUES

Slavery / 59

Union or Secession / 90

Purpose and Conduct of the War / 119

War and Individual Liberties / 131

Tariff / 139

Internal Improvements / 146

Land / 155

Banking / 160

Education and Agriculture / 162

Immigration / 166

Reconstruction and the Negro / 170

CHRONOLOGY / 179

FOOTNOTES / 181

SUGGESTED READINGS / 185

I Setting and Personal Background

THE UNITED STATES, 1830-1850

This volume is concerned with the ideas of Abraham Lincoln and Jefferson Davis, representative spokesmen for widely differing points of view and proponents of very different courses of action in nineteenth century America. As leaders of their respective people during the Civil War the two men faced similar problems and coped with similar issues. The solutions to the problems and the policies devised and followed by the two men are dealt with in some detail in this book. In general the ideas of Lincoln and of Davis stemmed from the same Anglo-American source; and frequently the ideas of both men echoed those expressed by their common American forebears and contemporaries—Jefferson, Hamilton, Jackson, Calhoun, Webster, Clay, and others.

Abraham Lincoln and Jefferson Davis, born in central Kentucky within a year and within a radius of eighty-five miles of each other, followed different paths to eminence. Geographically, they parted ways at a tender age: Lincoln moved to Indiana and later to Illinois, Davis moved south to Mississippi. They moved in completely different social circles: Lincoln remained poor and unnoticed during his first twenty years; Davis, by virtue of his brother's wealth, hobnobbed with the planter aristocracy. Lincoln enjoyed no more than a year of formal schooling, taken, as he said "by littles"; Davis' formal education, begun at the age of five, continued through college. Lincoln settled on the law as a profession; Davis, trained at West Point, considered himself a professional soldier as well as a gentleman planter. Different as their background, training, and experience were, they both turned ultimately to politics and both wrestled with the major problems and issues of their time. Each man became the spokesman and political

leader of his section in the struggle that split the United States and sent Americans to battle against fellow Americans.

The United States in which Lincoln and Davis grew to manhood was a raw, energetic, exploding world. In backwoods Indiana and Illinois Lincoln experienced the crudeness of frontier living. And Davis in the Mississippi region experienced its booming, brawling "flush times." When Lincoln crumpled under an assassin's bullet in 1865, the shadow was visible of the modern nation he had helped to further; when Davis died in 1889, the pattern was clearly set of an urban, industrial America that he had vigorously resisted.

By 1840, when both men reached their early thirties, the United States was entering a period of ferment and expansion. From 1840 to 1865, the country sustained a rapid series of cataclysmic changes which territorially, economically, politically, and socially produced a radically transformed nation. Issues, long demanding answers, erupted climactically by 1865 into consequences scarcely dreamed of in 1840.

Then the United States, confined within modest boundaries unchanged for a generation, stretched from the Atlantic to the Rocky Mountains, and from the Great Lakes to the Gulf of Mexico. The Sabine-Red-Arkansas Rivers still held as the southwestern boundary. But in less than twenty years the huge territories of Texas, Oregon, California, the other Mexican Cession lands, and the Gadsden Purchase fell in rapid succession into American hands. Augmented by this addition of 1,234,000 square miles, American territory now reached to the shores of the Pacific.

The population of the United States, about 7,000,000 when Lincoln and Davis were born, pushed past 12,000,000 by the time they came of age, and it reached 17,000,000 by 1840. Ten years later it was 23,000,000 and by the critical year 1860 it was more than 31,000,000. The population naturally increased most rapidly in the newer sections. The old Northwest, into which Lincoln moved when he was seven, numbered fewer than 800,000 inhabitants, but by 1860 it numbered more than 9,000,000. The entire

South (the seaboard, Gulf, and interior states all together) increased from 5,700,000 in 1820 to slightly more than 11,000,000 by 1860; here the principal increase came in the newly settled areas in Louisiana, Texas, Arkansas, Alabama, and Mississippi—Davis' home since he was three. In the same period the Northeast's population rose from 5,500,000 to 10,500,000. The Far West numbered 618,000 by 1860. Of the 11,000,000 persons in the Southern states 4,000,000 were Negroes, of whom all but 250,000 were held as slaves; free Negroes numbered 155,000 in the Northeast, 69,000 in the Northwest.

Although most of the growth resulted from natural increase of the native population, immigrants from Europe were crossing the Atlantic in growing numbers by 1850. Irish and Germans were the most numerous, averaging together about 200,000 annually from 1847 until the late fifties. Many of the newcomers gathered in self-contained communities within Northern cities; others took up land as farmers in the Old Northwest. Virtually none settled in the South.

Most Americans of the mid-century generation remained rural or small town in residence, habits, and manner of thinking. The 1860 census listed only thirty-five cities with a population of more than 25,000, and it classified 25,000,000 of the 31,000,000 Americans as rural. Farming continued as the way of life for five of every six Americans. But omens of the urban-industrial future of America were already discernible in the textile and shoe-manufacturing towns along the New England rivers; and smoke was rising from the new iron and steel establishments to cloud Pennsylvania skies. Commerce and finance centered largely in Boston, New York, Philadelphia, and Baltimore, with some interior cities like Pittsburgh, Cincinnati, Buffalo, Chicago, St. Louis, and New Orleans emerging by mid-century as well established centers of trade and business.

Perhaps the most impressive determinant in American economic growth during the four decades preceding the Civil War was the vast extension and remarkable improvement in transportation and

communication. The telegraph by 1850 provided instantaneous transmission of messages. The development of the steamboat in the early nineteenth century, together with federal expenditures of more than \$3,000,000 between 1822 and 1860 for improving river navigation, sped the movement of men and goods to all parts of the country. By 1846 more than 1200 steamboats were plying the western waters, carrying annually more than 10,000,000 tons of freight valued at \$432,000,000. By 1860 the gross tonnage of steamboats serving the Mississippi River system reached 868,000 tons.

During these years railroads were moving rapidly westward from the Atlantic seaboard through the mountain barriers into the interior. From feeble beginnings in 1828 the rail network grew to 3,000 miles by 1840, tripled by 1850, and tripled again in the next decade with over 30,000 miles in operation by 1860. Lines from New York, Philadelphia, and Baltimore connected with the western grid of lines to Chicago by the mid-fifties, when a bridge was built over the Mississippi at Rock Island, Illinois. In the South rail lines extended inland by 1860 from Norfolk, Richmond, Charleston, and Savannah to Chattanooga, Augusta, Atlanta, and Memphis. North-south tracks connected Louisville with Nashville and New Orleans and Mobile with Cairo and Chicago. Travel time decreased—that between New York and St. Louis, for example, from two weeks in 1830 to about two and a half days by 1860.

But the transportation revolution was not in speed alone. The direction and the volume of the country's interior trade shifted from north-south river routes to the east-west rail lines, particularly in the Old Northwest. By 1857 Cincinnati, for example, was shipping five times as much wheat and corn to northeastern cities as it sent to the South. Bonds of economic alliance between the Old Northwest and the Northeast were rapidly tightened in the 1850's; and by 1860 the prosperity of each depended upon the other. No longer did the Northwest lean heavily upon the South as a market for her agricultural produce.

From Andrew Jackson's day to the outbreak of the Civil War,

the United States experienced a social, cultural ferment that left lasting marks. Many forces contributed to the rising ferment: a revived concern for fulfilling ideals dormant since the American Revolution; an awakening transcendentalist spirit to arouse man's feeling of oneness and significance; a continuing belief in the perfectibility of man and his society; a conviction that man could determine his fate by his own efforts; a revival in religion that renewed man's effort to recover the meaning and practice of primitive Christianity; a shadow of rising industrialism that threatened to obscure human individuality; a growing conviction that America was unique and must strive to preserve and enrich the essence of her experiment to provide a new, open society which would insure man's talents full opportunity for expression. All these streams swept into a torrent of activity for self-improvement and social betterment which would eradicate society's evils and its limitations on individual freedom.

All were agreed that popular education provided the key to unlock human freedom and cast out social evils. By 1850 the principle was well established that all children should attend school up to a certain age. Between 1830 and 1860 virtually all states and communities made some provision for elementary schools supported by public funds; religious groups and others were free to operate schools at their own expense. At the secondary school level the private academy remained the predominant institution until after the Civil War. Colleges proliferated, usually under religious sponsorship; by 1860 there were more than five hundred. A peculiarly American development was the public, secular state university offering instruction in a variety of fields. Michigan, Pennsylvania, and Wisconsin pointed the way. Professional and technical education made some headway with the establishment of engineering schools; schools of medicine and law were still embryonic. At the adult level free public libraries, mechanics institutes, lyceums and agricultural societies provided new channels for disseminating ideas and information. Natural science made long strides forward under such scholars as Benjamin Silliman, Louis Agassiz, and

Joseph Henry and such new agencies as the Smithsonian Institute and the American Association for the Advancement of Science. Indeed, Americans, eager to exploit the vast natural resources of their country, came to revere science in its technical applications as the means of raising men and society from crude, primitive beginnings to a more cultivated level.

And as the whirring of the textile looms grew louder in the second quarter of the nineteenth century, the Northeast was producing a remarkable generation of creators. Where Unitarianism softened the harshness of Calvinism, transcendentalism produced a new humanitarianism. In literature writers and thinkers like Emerson and Thoreau renewed men's faith in themselves and in their ability to remake their society. The older, aristocratic approach of James Fenimore Cooper and Washington Irving gave way before the greater concern for the common man and for democratic society proclaimed by Henry Wadsworth Longfellow and Walt Whitman.

That man and his society were perfectible was assumed. The belief was widespread that Americans were witnessing the dawn of a new and wonderful day. The millenarians were convinced that the imminent second coming of Christ would bring heaven on earth, but more prosaic utopian socialists held that man must labor to create an earthly paradise. Hence the many utopian experiments from Brook Farm, Massachusetts, to New Harmony, Indiana, which were to point the way to a harmonious, joyous perfection.

When utopian efforts for immediate perfection began to lag, many individual reformers turned to attack, alleviate or eliminate specific ills from which human society suffered. If the Christian ideal of love or the humanitarian goal of brotherhood of men were to be realized, the most glaring discrepancies between practice and profession must end. Some men therefore joined hands to work for elimination of war and establishment of universal peace. Others labored to improve the condition of the criminal, the insane, the blind, and the other unfortunates of society by kindly treatment and rehabilitation. Demon rum was blasted as the temperance

cause won adherents, and some states adopted restrictive legislation. Female reformers, arguing strenuously that the glowing phrases of the Declaration of Independence should apply equally to them, issued a ringing manifesto at a woman's rights convention at Seneca Falls, New York in 1848.

While each of these humanitarian reform movements made gains in its own field, by the 1840's the most appealing was the anti-slavery drive which in time shook the Union to its foundations. Because it too sprang from humanitarian, Christian roots, the drive against slavery became the all-absorbing passion of many men who earlier had led other reform efforts. In the 1830's the movement took on an aggressive, vehement, uncompromising tone with William Lloyd Garrison's declaration in the first number of his *Liberator*: "I do not wish to think, or speak, or write, with moderation . . . I will not equivocate—I will not excuse—I will not retreat a single inch—AND I WILL BE HEARD." Like an Old Testament prophet, Garrison, with unyielding conviction, impossible self-contradiction, and insufferable self-righteousness, exorcised slave holders as the most vicious of sinners and all those who spoke charitably of them as man-stealers, torturers, and dealers in human flesh. His strategy was to belabor the most atrocious aspect of slaveholding and by dwelling upon its most brutal incidents to generalize in condemnation of not only the "peculiar institution" itself but the entire South.

Although Garrison won some converts to abolitionism, he alienated many from the cause by his intemperate, insulting outbursts. His efforts, together with other developments like the Nat Turner insurrection of 1831 which cost the lives of more than fifty Virginians, so stiffened the attitudes of all Southerners that the South demanded it be spared propagandistic attacks of overzealous reformers. The mails were then closed to abolitionist literature, and free discussion in the House of Representatives choked off by the Southern-sponsored "gag rule" which required that all petitions on slavery be laid on the table without consideration.

While Garrison labored in New England, another inspired young

man, Theodore Weld, converted by evangelist Charles G. Finney, promoted the anti-slavery thrust farther west. Weld opened the question of slavery to public debate in Cincinnati when he aroused the students at Lane Theological Seminary. And when the trustees protested, the "Lane rebels" followed Weld north to Oberlin College, from which base Weld's inspired "Band of Seventy" carried the anti-slavery gospel to listeners throughout the Lake Erie basin and western New York and Pennsylvania. On a trip south Weld converted slaveholder James G. Birney, who freed his slaves and moved first to Kentucky and then to Cincinnati, where he published an ardent anti-slavery paper and became the presidential nominee of the newly formed Liberty Party in 1840.

Even though abolitionists were widely considered radical crackpots, support for the abolition movement began to rise from diverse sources. Quakers in Philadelphia and elsewhere renewed their earlier testimony against slavery. Lucretia Mott of Philadelphia; the Grimké sisters of South Carolina, who freed their slaves and moved to the North; the wealthy Tappan brothers of New York; ex-slave Frederick Douglass; and Yankee men of letters, Wendell Phillips, John G. Whittier, and James Russell Lowell, all became prominent advocates. By 1840 the Northern states counted more than five hundred abolitionist societies with more than 150,000 members; anti-slavery tracts, pamphlets, and periodicals were circulated in ever-increasing numbers.

Abolitionist sympathy, effectively aroused by anti-slavery propagandists, soon came to focus on the runaway slave escaping from the horrors of slavery so vividly painted by the abolitionists. And abolitionist hostility centered on the professional slave catchers. Under the federal Fugitive Slave Act of 1793, a master or his agent could force a runaway slave caught in a free state to return to his plantation. On occasion a professional slave catcher who was unable to find the true fugitive would grab any Negro at hand. This kind of kidnapping was so offensive that in 1826 Pennsylvania and later other Northern states passed "personal liberty laws" which insured due process of law in state courts for free Negroes. Abolitionists

stirred Northern resentment against kidnapping into a broad sentiment against the return of even genuine fugitives. And they now resisted as subservient truckling to the "slave powers" the obligation laid down by the United States Constitution and federal law.

Abolitionists took the lead in evading and disobeying federal law. If he was able to escape his home plantation and cross the Ohio River or the Pennsylvania state line undetected, a runaway slave with the proper contacts could count upon being concealed by day in the houses or barns of sympathetic abolitionists and smuggled northward by night to cross over into Canada and freedom. The "Underground Railroad" whisked away probably no more than a tiny fraction of one per cent of the total slave population. In emotional terms, however, it heartened abolitionists and increased their ardor for the cause, and it outraged Southerners, who denounced this Yankee interference and violation of law.

Some Northern personal liberty acts were so constructed as to make identification of a fugitive almost impossible. In the case of *Prigg v. Pennsylvania*, the Supreme Court declared such a Pennsylvania law unconstitutional in 1842. But if Northerners had no right to obstruct the enforcement of a federal act, they could not be forced, they argued, to assist federal authorities in compounding a wrong. Hence a Boston mob in 1843 wrested a Virginia runaway from his captors. Other such rescues were frequent.

Anti-slavery agitation achieved respectability and entered the political arena in the late 1830's. Earlier considered a hair-brained, marginal movement, it was thrust into association with the cause of free speech as a result of the gag rule of 1836. Ex-President John Quincy Adams, serving in the House, launched a formidable campaign against the rule. Announcing that he would present any petition sent to him, he offered in the House all kinds of petitions on slavery only to be promptly gavelled out of order by the Speaker. But threats, resolutions of censure, and moves to expel failed to silence Adams, stirred as he was by this stifling of a constitutional right of free citizens to petition their government for redress of grievances. For ten years Adams kept the issue in the public lime-

light, supplied with inexhaustible material on slavery's atrocities by Theodore Weld, who published the most horrible incidents in his book *Slavery As It Is*.

Through Adams' ceaseless argument many Northerners who had little interest in abolition became aroused against slavery when they saw it as a menace to free speech, the very foundation of the free institutions they prized as vital to America's unique experiment in free popular government. Slavery, whose spokesmen, like Calhoun, pronounced it a "positive good" to be exported from the South to new parts of the country, now appeared a threat. Many Northerners became convinced that they must resist the growing danger even after Adams got the hated gag rule rescinded in 1844.

The slavery question injected a new jarring note into American politics. Since Andrew Jackson's day the two major political parties—Democrats and Whigs—had contended against each other for political place and for power to determine policy. The Democratic and the Whig parties boasted no national party organization in the modern sense. Rather, they were loose organizations, vague affiliations of local groups joined together under the same label for various reasons and purposes. Often the groups were much more concerned with local, county, or state offices than with agreement or harmony on national issues. They often seemed much more devoted to fighting the opposition than to offering constructive answers to problems. At times observers were hard pressed to discover any substantial difference in principles.

But in general terms there were differences—and certainly those who were active Whigs and Democrats believed the differences considerable and important. The Democrats were the older party, tracing their political pedigree back to Thomas Jefferson in the first years of the Republic. Traditionally, they had talked in Jeffersonian terms, stressing limited government operating within strict bounds set by the Constitution and also the ideal of an agrarian society of sturdy, self-reliant small farmers. But they were not willing to concede that transportation, trade, and even some industry were necessary adjuncts to agriculture provided that equality of

opportunity was maintained free of artificial restraints of special privilege and monopoly. The inconsistencies and paradoxes in Jefferson were responsible for various currents which diverged according to the emphasis given by party descendants to the various strains of the Jeffersonian dogma. Those who viewed local autonomy and control as most important often stressed the doctrine of state rights and the reserved powers of the states as provided in the Constitution; others, focusing on Andrew Jackson's fight for the Union in 1833, emphasized national aims and interests and national ascendancy.

In terms of specific national questions, the Democrats generally stood for a low tariff, for the Independent Treasury system and against a national bank of the Hamiltonian kind, and for a vigorous foreign policy that would extend American commercial interests and territory and confer the blessings of American democracy abroad. On federal land policy Democrats disagreed among themselves, Westerners generally urging the more liberal transferring of the public domain into private hands. Democrats often held constitutional scruples that barred federal building of transportation facilities. But by 1850, party leaders moved to endorse a system for federal land subsidy for ocean shipping. On monetary policy the party had no general agreement.

In both the North and the South small farmers were usually Democrats although the pattern was varied by local areas and issues. Those engaged in commerce in the Northeast were usually Democrats; so were newly arrived immigrants in the Northern cities from Boston to Chicago.

The Whig Party drew its greatest strength from the wealthy planter element in the South although exceptions increased in the 1850's; from manufacturing, financial, business, and professional groups and from small tradesmen and shopkeepers in the North, in the border states, and in the South; and from limited groups of farmers in specific areas like upstate New York and the Western Reserve of Ohio. The Whigs leaned toward a protective tariff, a national banking system, a restrictive land policy and federally

financed internal improvement. And although they enjoyed the brilliant leadership of men like Henry Clay and Daniel Webster, they found agreement next to impossible.

LINCOLN AND DAVIS: Their Early Years

Although Abraham Lincoln and Jefferson Davis were reared in a Democratic atmosphere, Lincoln emerged as a Whig, Davis remained a Democrat. Lincoln's interest in public affairs appeared early. After serving in a volunteer company of which he was elected captain during the Black Hawk War, he plunged wholeheartedly into politics at twenty-three by seeking election to the Illinois state legislature. Davis, too, served in the Black Hawk War—as a lieutenant in the regular army. But he did not turn actively to politics until at thirty-five he became a Democratic candidate for the Mississippi legislature. Davis resigned from the army in 1835, by which time he was a widower. When his wife, General Zachary Taylor's daughter died a few months after their marriage, Davis took up cotton planting at his Brierfield estate in Mississippi, a tract of a thousand acres given him by his brother, Joseph Davis, who was perhaps the state's largest and most influential land owner.

Lincoln served his political apprenticeship from 1834 to 1841 in the Illinois legislature where, as leader of the Whig "Long Nine," a group of six-footers, he advocated state-built roads and canals to provide outlets for Illinois farm products and gained much insight into politics and human nature. By 1844 Lincoln had moved from the village of New Salem to nearby Springfield, the state's new capital; had married Mary Todd, acquired a new house and a new son, Robert Todd, and had formed the law partnership with William H. Herndon which lasted until Lincoln's death in 1865. A consistent Whig in politics, Lincoln admired and actively supported Henry Clay during the 1840's. In 1846 Lincoln was elected Congressman to serve a single term, the only Whig among seven Democrats from Illinois. In an otherwise undistinguished term he introduced

and supported the "spot resolutions," which criticized Democratic President James K. Polk for provoking war with Mexico; introduced a bill to free the slaves in the District of Columbia; urged internal improvements; and obtained a patent for a boat-lifting device. In 1848 Lincoln campaigned in New England and elsewhere for Whig Zachary Taylor, but was not himself offered another term in the House. During the next few years law practice absorbed his energies, and success at the bar temporarily obscured his interest in politics. But the passage of the Kansas-Nebraska Act in 1854, which brought "the repeal of the Missouri Compromise," so aroused him that he actively entered politics again. And this subsequent campaigning against the extension of slavery marked the beginning of the path that led straight to the White House.

During half these same years, 1835-1855, Davis had managed his plantation in Mississippi and read deeply and broadly in the classics, the English literary masters, and the magazines and newspapers of the day. He discussed issues of the day with his brother and other eminent Southerners. He ran as a Democrat for the state legislature, campaigned for Democrat James K. Polk in 1844, and married Varina Howell in 1845. He was then elected to the House of Representatives in 1845 where he served briefly before resigning to take command of a Mississippi volunteer regiment in the war against Mexico. By distinguishing himself at Monterey and Buena Vista he won repute as a soldier and reinforced his own image of himself as a skillful, effective military leader.

After the war, he reentered politics and was elected to the United States Senate, where he took his seat in December 1847. As a senator he quickly gained recognition as one of the leading defenders of Southern interests and Southern rights. During the 1850 crisis he supported John C. Calhoun, who opposed the admission of California as a free state. Calhoun maintained that admitting California as a free state would submerge the South into the position of a permanent minority whose interests the Northern majority would no longer heed. Even though opposition to the Compromise of 1850 threatened the Union, Davis willingly risked this danger and

joined nine other Southern senators in a formal protest against California's admission. But at this point Davis stopped. Unlike his fellow senator from Mississippi, Henry S. Foote, who urged acceptance of the compromise and maintenance of the Union, Davis would not go along with the extremists who were prepared to disrupt the Union. Southerners divided in 1850 into three main factions with different theories on the best way to preserve Southern rights and interests. The separate state action men demanded immediate secession by individual Southern states regardless of what others did. Pro-Union men believed that Southern interests could be best served by remaining within the Union. The so-called "cooperationists" held, in spite of their concern over the loss of Southern influence in Washington, that the Southern states should act in concert; they therefore opposed separate individual state secession. In Mississippi fiery John A. Quitman led the first group; Henry S. Foote championed the second; and Davis led the "cooperationists." When Foote was nominated for governor in 1851 on a strong pro-Union platform, Davis was prevailed upon to resign from the Senate to run in opposition. And after Davis lost the close race, he returned to the private life of a planter.

In 1853 President Franklin Pierce called Davis back to public life by appointing him Secretary of War. Carl Schurz commented on meeting Davis:

What a grand personage the War Minister. . . . He received me graciously. His slender, tall, and erect figure, his spare face, keen eyes, and fine forehead, not broad but high and well-shaped, presented the well-known strong American type. There was in his bearing a dignity which seemed entirely natural and unaffected—that kind of dignity which does not invite familiar approach, but will not render one uneasy by lofty assumption. His courtesy was without any condescending air. . . . His conversation ran in easy . . . well-chosen and sometimes even elegant phrase and the timbre of his voice had something peculiarly agreeable. . . .

I was struck by the dignity of his bearing, the grace of his diction, and the rare charm of his voice—things which greatly distinguished him from many of his colleagues.¹

As Secretary of War Davis revised army regulations, strengthened and stabilized the regular forces, introduced new and better equipment, established the medical corps, brought long overdue improvements in the military academy at West Point, and experimented with camels as means of better transportation in the Far Western Command. While this experiment was proving impracticable Secretary Davis supervised a series of army-sponsored surveys of possible routes for a railroad to the Pacific Coast. Because he favored the most southerly route, from El Paso to southern California, as the most practicable, he pushed for the acquisition of land from Mexico, which was obtained by the Gadsden Purchase a short time later. An ardent expansionist of the Polk-Democratic school of 1844, Davis also urged and supported measures for acquiring additional territory for the United States with the hope of incorporating Cuba, Nicaragua, and other parts of Mexico and Central America. Davis envisioned a great railroad from California to Memphis which would pour the products of the growing West and the Orient into the lower South. Economic benefits would accrue to Vicksburg and New Orleans. Connecting railroads from Memphis to Charleston via Montgomery and Atlanta and to Mobile via Jackson would spread commercial prosperity throughout the South. With the linking of Tennessee, Kentucky, Missouri, and even the Old Northwest with the lower South, the growing economic and political power of the North would be offset.

Davis succeeded in winning the support of his close friend, President Pierce, who strongly urged Congress to act in favor of the proposed Pacific railroad via the southern route. Adoption of the plan seemed likely, but in 1854 Senator Stephen A. Douglas introduced and fought through to congressional acceptance the Kansas-Nebraska Act, which provided territorial government for areas, the slavery question to be decided on the basis of popular sover-

eignty. Because it repealed the Missouri Compromise, this act made possible the northward spread of slavery to federal territories where it had been barred since 1820. Thousands of Northerners—among them Abraham Lincoln—were roused from political apathy by this threat.

Davis concluded his administration of the War Department in 1857 with the publication of an extensive report of his various surveys of the possible railroad routes from the Mississippi Valley to the Pacific. These monumental ten volumes contained a vast quantity of information about the country: topography, physical and natural features, plant and animal life—all covered in detail from data gathered by engineers, scientists, and artists.

After returning to Mississippi, Davis was again elected to the United States Senate. His platform favored the annexation of Cuba and Nicaragua, demanded full recognition of Southern rights, endorsed the Supreme Court's decision in the Dred Scott case—the decision that Congress could not constitutionally bar slavery from the territories—and maintained that "African slavery, as it exists in the United States, is a moral, a social and a political blessing." As a senator Davis stood firmly for Southern rights, as he conceived them, denounced as Northern aggression John Brown's raid at Harper's Ferry, and pushed for federal protection of slavery in the federal territories. He became a stubborn foe of Douglas, whom he denounced as a treacherous demagogue; and he joined other Southern extremists to block Douglas' nomination at the ill-fated Charleston convention that tore the Democratic party to shreds. Although he supported Breckinridge in the election, he seemed to draw back cautiously from the yawning chasm of secession. He remained quiet and passive after Lincoln's election in November 1860, even writing to South Carolinians to discourage precipitous moves toward secession and to urge calm deliberation. In January 1861, when Mississippi announced her withdrawal from the Union, Davis resigned from the Senate. Three weeks later the Montgomery Convention named him provisional President of the Confederate States of America.

Since 1854 Abraham Lincoln had been increasingly busy in the political arena. He spoke frequently and forcefully in the anti-Nebraska cause. Although the state legislature had failed to elect him to the United States Senate in 1855, his growing stature in the Republican party won him 110 votes for the vice-presidential nomination at the party's convention the following year. He campaigned vigorously for John C. Fremont's election to the presidency.

In 1858 Illinois Republicans tapped Lincoln as their candidate for the United States Senate. He accepted the nomination on June 16 with his famous "house divided" speech and plunged into a fighting campaign to unseat incumbent Senator Douglas. After his twelve years in the Senate Douglas had gained recognition as a national leader of the Democratic party and had been mentioned seriously for his party's presidential nomination in 1856, only to be passed over for James Buchanan. Political seers predicted confidently that he would be elected President in 1860. But Douglas was in trouble within his own party, for he had sponsored and pushed the Kansas-Nebraska Act through Congress. When Kansas applied for admission as a state under the fraudulently-adopted, pro-slavery Lecompton Constitution, Douglas fought doggedly against it. He maintained that such an admission was a perversion of the will of the majority of Kansans; President Buchanan urged Congress to accept Kansas as a slave state. Cracking down on Douglas for opposing administration policy, the President proceeded to fire federal postmasters, district attorneys, and clerks who held appointments through Douglas' influence. Now the national administration hoped and worked for Douglas' defeat.

When Lincoln's managers challenged him to debate the campaign issues, Douglas was already a nationally known and a genuinely popular leader. His rallies were already drawing large crowds who wanted to see "The Little Giant" who had defied the President and succeeded in blocking admission of Kansas as a slave state. Although Douglas had little to gain by it, he accepted the Lincoln challenge. In the ensuing seven debates, the contenders not only lambasted each other but thoroughly expounded their views on the

question of slavery in the territories, the Dred Scott decision, and other political issues of the day. In the election Lincoln won a narrow majority of the state-wide vote, but the gerrymandered districts produced a Democratic legislature that reelected Douglas to the Senate. The effect of the campaign, which was followed closely not only in Illinois but in the whole country, was to project Lincoln into national prominence as a politician who had battled on even terms with the Democrats' most impressive national leader. In 1859 and 1860 Lincoln, now widely sought after, spoke extensively in Ohio, Kansas, Wisconsin, New York, and New England, where Republican audiences received him favorably.

As the Republican nominee in 1860 Lincoln ran for the Presidency in a peculiar four-way race, making the chief issue of the campaign his opposition to extending slavery into federal territories. Lincoln captured 1,866,452 popular votes and 180 electoral votes. Douglas, the regular Democratic candidate, who campaigned for popular sovereignty, got 1,376,957 popular votes but only twelve electoral votes. John C. Breckinridge, nominated by Southern Democrats on a platform calling for federal protection of slavery in the territories, received 849,781 popular votes but only 72 electoral votes. The Constitutional Union party candidate, John Bell, standing simply for preservation of the Union and the Constitution, polled 588,879 popular and 39 electoral votes. Believing Lincoln's election was a threat to Southern interests, seven Southern states, with South Carolina in the lead, voted themselves out of the Union in the three months following the presidential election. Delegates from these states met at Montgomery, Alabama by early February, 1861, formed a provisional government for the Confederate States of America and chose Jefferson Davis as President. Thus, when Lincoln took control in Washington on March 4, 1861, he faced a divided country, a large proportion of whose people denied his and the federal government's authority over them.

What course of action President Lincoln and the United States government chose to pursue would depend in large part upon his views on a great number of questions, problems, and issues, involv-

ing such matters as the nature of man, of society, of democracy, of government in general, of the United States in particular, the nature and location of sovereignty, and the use of coercion in human affairs. How Jefferson Davis and the Southern Confederacy would act depended on Davis' views on the same questions. In general their ideas stemmed from the Anglo-American background which they shared. Often they re-echoed ideas expressed by their American forebears—notably Jefferson, Hamilton, Jackson, Calhoun, Webster, Clay and others. Often they faced similar problems and issues as leaders of their respective people during the Civil War. The ideas of these two spokesmen, the issues and the problems they wrestled with, the answers they developed, and the policies they pursued are dealt with in some detail in the pages that follow, for Lincoln and Davis are representatives of two completely different points of view and proponents of completely different courses of action in nineteenth century America.

II Ideas and Beliefs

Lincoln subscribed to no formal or systematic philosophy. His general conclusions were drawn largely from his sharp powers of observation of the behavior of men and the operation of social, political, and economic institutions rather than from finely conceived abstractions. In no single utterance does he set forth any general, overall view of mankind or society. The occasional generalizations made in striving to discover general truths in his speeches and writings appear largely pragmatic; and he has tested the consequences of particular brands of behavior or action through his own observations.

His decision to become a lawyer is indicative of Lincoln's belief that men could be appealed to and would react upon the basis of reason. And though he conceived of man as not wholly rational, Lincoln found in him a large element of reason. Speaking on the preservation of liberty in 1838, he declared that "Reason, cold, calculating, unimpassioned reason, must furnish all the materials for our future support and defense. Let those materials be molded into general intelligence, sound morality, and in particular, a reverence for the Constitution and laws. . . ."¹ Rational persuasion was the best, most effective way to appeal to man and to influence his behavior. This view runs steadily and consistently through Lincoln's speaking and writing during the long controversy over slavery; and his appeals to the South before and during the Civil War are largely appeals to the reason of the Southerner to return to the Union since, physically speaking, "we cannot separate."

In speaking on temperance, which he supported because it improved the lot of both the individual and society, Lincoln pointed out in 1842 that emotional harangues and "denunciation against dram-sellers and dram-drinkers" were of no use. "It is not much in the nature of man to be driven to anything; still less to be

driven about that which is exclusively his own business; and least of all, where such striving is to be submitted to, at the expense of pecuniary interest or burning appetite." Denunciation simply bred resistance and resentment. Lincoln continued that to expect otherwise

. . . was to expect a reversal of human nature, which is God's decree, and never can be reversed. When the conduct of men is designed to be influenced, *persuasion*, kind, unassuming persuasion, should ever be adopted. It is an old and true maxim, that a "drop of honey catches more flies than a gallon of gall." If you would win a man to your cause, *first* convince him that you are his sincere friend. Therein is a drop of honey that catches his heart, which . . . is the great highroad to his reason, and which, when once gained, you will find but little trouble in convincing his judgment of the justice of your cause. . . . On the contrary, assume to dictate to his judgment or to command his action, . . . and he will retreat within himself, close all avenues to his head and his heart.²

As a fundamentally rational creature, man could also improve himself and his society. Lincoln was sure that man could better his material condition, for he had seen with his own youthful eyes great physical and material improvements come to his own raw, frontier community. He developed and delivered a lecture on inventions and discoveries that had improved man's lot; and he applied for a patent on a device he himself had contrived for lifting boats over obstructions in rivers.

Lincoln willingly conceded that man did not always respond to reason nor exercise his own reason, that he was often weak, foolish, frivolous, inconsistent, and emotional, that he often acted unreasonably. Although he knew that man was sometimes ambitious, greedy, ruthless, and intolerant, he believed that given proper

encouragement, the better impulses of man would prevail over his baser impulses.

Slavery was founded in the selfishness of men's nature—opposition to it is [in] his love of justice. These principles are an eternal antagonism; and when brought into collision so fiercely, as slavery extension brings them, shocks and throes, and convulsions must ceaselessly follow. Repeal the Missouri Compromise—repeal all compromises—repeal the Declaration of Independence—repeal all past history, you still cannot repeal human nature. It still will be the abundance of man's heart, that slavery extension is wrong, and out of the abundance of his heart, his mouth will continue to speak.³

Lincoln held that man tended toward good rather than evil and that this tendency could and should be encouraged. Tolerance was the key to proper attitudes and conduct among men. But society should be so arranged and human institutions so organized as to give full encouragement to man's better nature, and man should use his intelligence and energies to insure such an arrangement and organization. Lincoln believed, in fact, that the American experiment of government was a firm step in this direction.

Lincoln's support of the temperance movement offers evidence of such a belief. His later stand against slavery, his ardent efforts to prevent its spread into new territories, and still later when he was President his determination to bring slavery to an end—albeit on a reasonable basis—indicated his belief that society was improvable, if not perfectable.

Lincoln apparently assumed that man could make free choices which would affect his future, but the evidence is less clear here. And Lincoln sometimes spoke of man's efforts as feeble and futile unless in accord with the plans of God or Providence. While a belief in progress in human affairs flows through his thinking, he

appears at times almost fatalistic. In relation to the Civil War itself, he wrote in 1862:

The will of God prevails. In great contests each party claims to act in accordance with the will of God. Both may be, and one must be wrong. God cannot be for, and against the same thing at the same time. In the present civil war it is quite possible that God's purpose is something different from the purpose of either party—and yet the human instrumentalities, working just as they do, are of the best adaptation to effect His purpose. I am almost ready to say this is probably true—that God wills this contest, and wills that it shall not end yet. By his mere quiet power, on the minds of the now contestants, He could have either saved or destroyed the Union without a human contest. Yet the contest began. And having begun He could give the final victory to either side any day. Yet the contest proceeds.⁴

Perhaps this is not quite the same as saying that man's efforts are completely in vain but it comes close to it. It may be fairer to say that Lincoln is suggesting that man's striving is not to no avail, that it is simply a carrying-out of the divine will. No man has foreknowledge and that therefore the outcome is uncertain. Clearly, Lincoln was not an out-and-out fatalist. Had he been, he could scarcely have become active in political affairs.

MAN AND SOCIETY: Davis

Jefferson Davis's given name clearly indicates the political leanings of his father. And Jefferson Davis who was a Southern country gentleman as well as a professionally trained soldier studied the writings of Thomas Jefferson assiduously. In the years of seclusion following the death of his first wife, Davis and his older brother Joseph thoroughly studied the writings of classical antiquity, of John Locke, and of Adam Smith; the *Federalist* and Elliott's *Debates* on the federal Constitution; and the resolutions and debates of Congress and the Virginia legislature on the Alien and

Sedition laws of 1798-1799. He also found time to read Byron, Burns, Scott, Shakespeare, Addison and Steele, and Swift and spent long evening hours discussing these authors with his brother. These years of wide reading helped prepare him for the career in public life that lay ahead. His later speeches and writings reflect a fullness, a maturity, and a broad acquaintance in many areas of human learning.

But Davis never became a philosopher given to broad speculation or original thought. Rather, he remained a man of practical affairs devoted to managing men and things for immediate ends. In politics and government alone he dealt with abstractions and here his devotion to abstract principles often diverted him from political reality.

Although he wrote extensively, Davis made no formal, elaborate statement of his basic beliefs. But much can be inferred from what he did say. In general, he, too, seems to have believed that man was a rational creature capable of reasoning and rational response. As a politician he attempted to appeal coolly to man's reason rather than to his emotions. Most of his speeches, especially those made in the secession crisis, and his post-war books are elaborate, closely reasoned, logical arguments for a particular position or course of action. Clearly, he thought that man could be swayed by the compulsion of logic.

But he made distinctions, often speaking of "the intelligent men" of the country or of the South. He seemed to have believed that there was an inevitable order in society; that some men would be owners and managers of property but that other men were simply destined to be drawers of water and hewers of wood, like the Negro slaves of the South. But outside of the slave status, the levels of society were not necessarily permanently fixed. Certainly Davis found in his own experience confirmation of social mobility, for he had seen his brother climb from the obscure poverty of his father's small farm to control a large plantation and to enjoy wealth and social position. The natural aristocracy Davis conceived of was one of capacity and talent, allowing for the accession of the self-made man of ability.

GOVERNMENT AND DEMOCRACY: Lincoln

Lincoln had no elaborate theory of government and spent little time in refined speculation in the realm of political theory. Such ideas as he had he expressed in simple, direct, straightforward terms.

His frequent references to the Declaration of Independence suggest that, like most men of his generation, he subscribed to the natural rights theory of government. He spoke often of the "right of self-government" and said time and again that the true source of political authority was the people. As he put it in the first inaugural address, "The Chief Magistrate derives all his authority from the people." Although he emphatically rejected the "divine right of kings" doctrine as alien and unjust, he supported what may be called the "divine right of the people" to govern themselves. Rightful government, he maintained, rested upon "the consent of the governed." This was the meaning of the American revolution, by which men had fought to establish the principle of government by popular consent.

Lincoln seldom spoke in general, theoretical terms. Rather, he preferred to discuss particular questions in terms of their American background and in terms of the American experience. The American government, he thought, had been originated by human beings who labored together to create an instrument that would accomplish certain purposes. The primary purpose was to insure human freedom—or, in terms of the Declaration of Independence, to preserve each man's right to "Life, liberty and the pursuit of happiness." In 1854 Lincoln noted:

Most governments have been based, practically, on the denial of equal rights of men, as I have in part, stated them; ours began by affirming those rights. They said, some men are too ignorant and viscious, to share in government. Possibly so, said we: and, by your system, you would always keep them ignorant, and viscious. We proposed to give them all a chance; and we expected the

weak to grow stronger, the ignorant, wiser; and all better, and happier together. . . .⁵

Lincoln demanded also, "Why should there not be a patient confidence in the ultimate justice of the people? Is there any better, or equal hope, in the world?"⁶

Lincoln's insistence upon equal rights was simply his practical application of the broad principle of justice. The feeling that justice must be done to all men runs throughout his thinking and writing. Certainly, in his view, a major object of government was to insure justice to all men. But he upheld justice in no doctrinaire sense; and he realized that the situation must temper the application of abstract justice. Although justice demanded equal rights for all men, adjustment had to be made according to the circumstances since practical arrangements in society sometimes obviated the attainment of equal rights. Lincoln made a distinction between human and property rights. Government should insure both but in case of conflict human rights must take precedence.

Government should also serve another purpose. In Lincoln's words:

The legitimate object of government, is to do so a community of people, whatever they need to have done, but cannot do, at all, or cannot, so well do, for themselves—in their separate, and individual capacities.

In all that the people can individually do as well for themselves, government ought not to interfere.

The desirable things which the individuals of a people cannot do, or cannot well do, for themselves, fall into two classes: those which have relation to wrongs, and those which have not. Each of these branch off into an infinite variety of subdivisions.

The first—that in relation to wrongs—embraces all crimes, misdemeanors, and nonperformance of contracts.

The other embraces all which, in its nature, and without

wrong, requires combined action, as public roads and highways, public schools, charities, pauperism, orphanage, estates of the deceased, and the machinery of government itself.

From this it appears that if all men were just, there still would be some, though not so much, need of government.⁷

American democratic government, Lincoln believed, was best adapted to insuring justice in human affairs. Although he composed no fine-spun treatise on democracy, Lincoln did express his ideas in many places. On a scrap of paper Lincoln wrote, probably in 1858: "As I would not be a *slave*, so I would not be a *master*. This expresses my idea of democracy. Whatever differs from this, to the extent of the difference is no democracy."⁸ But in addition to this emphasis on equality, Lincoln delineated other ingredients he considered essential to democracy. Liberty, freedom of choice and action he ranked high: "I believe each individual is entitled to do as he pleases with himself and the fruit of his labor, so far as it in no wise interferes with any other man's rights."⁹

Closely allied with individual freedom was his further belief in popular self-government:

. . . that each community, as a state, has a right to do exactly as it pleases with all the concerns within that state that interfere with the rights of no other state. . . . I do not believe in the right of Illinois to interfere with the cranberry laws of Indiana, the oyster laws of Virginia, or the liquor laws of Maine.¹⁰

Individual liberty (the right of the individual to decide for himself) and the right of the community to decide for itself, in Lincoln's view, could best be insured through the orderly process of law. Disobedience to law, disrespect for and non-observance of orderly legal process inevitably led to the destruction of liberty.

In a speech, given when he was twenty-nine, Lincoln described the horrors of mob violence, then called upon

. . . every American, every lover of liberty, every well wisher to his posterity, [to] swear by the blood of the Revolution, never to violate in the least particular, the laws of the country; and never to tolerate their violation by others. As the patriots of seventy-six did to the support of the Declaration of Independence, so to the support of the Constitution and laws, let every American pledge his life, his property, and his sacred honor; let every man remember that to violate the law, is to trample on the blood of his father, and to tear the charter of his own and his children's liberty. Let reverence for the laws, be breathed by every American mother, to the lisping babe, that prattles on her lap; let it be taught in schools, in seminaries, in colleges; let it be written in primers, spelling books, and in almanacs; let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice. And, in short, let it become the *political religion* of the nation; and let the old and the young, the rich and the poor, the grave and the gay, of all sexes and tongues, and colors and conditions, sacrifice unceasingly upon its altars.¹¹

On the positive side, public opinion, the expression of the views of the people, should be the determining force in a democracy. And for purely practical reasons the will of the majority must prevail on determining public policy. This was the function of politics—to give voice to public opinion; and as a politician Lincoln considered it his job to seek to mold public opinion: "Our government rests on public opinion. Whoever can change public opinion can change the government, practically just so much. Public opinion or [on?] any subject, always has a 'central idea', from which all the minor thoughts radiate."¹²

Majority rule must determine policy in a democracy. Lincoln saw no alternative and said so vigorously in his first inaugural address:

From questions of this class, spring all our constitutional controversies, and we divide upon them into majorities and minorities. If the minority will not acquiesce, the majority must, or the government must cease. There is no other alternative; for continuing the government, is acquiescence on one side or the other. If a minority, in such case, will secede rather than acquiesce, they make a precedent which, in turn, will divide and ruin them; for a minority of their own will secede from them, whenever a majority refuses to be controlled by such minority. . . . Plainly, the central idea of secession is the essence of anarchy. A majority, held in restraint by constitutional checks, and limitations, and always changing easily, with deliberate changes of popular opinions and sentiments, is the only true sovereign of a free people. Whoever rejects it, does of necessity, fly to anarchy or to despotism. Unanimity is impossible; the rule of a minority, as a permanent arrangement, is wholly inadmissible; so that, rejecting the majority principle, anarchy or despotism in some form, is all that is left.¹³

In theory at least, Lincoln followed through on the natural rights theory to the extent of giving lip-service to the right of revolution. As a Congressman he delivered a speech in 1848 criticizing the war with Mexico and attacking the Polk administration:

. . . Any people anywhere, being inclined and having the power, have the *right* to rise up, and shake off the existing government and form a new one that suits them better. This is a most valuable, a most sacred right—a right, which we hope and believe, is to liberate the world. Nor

is this right confined to cases in which the whole people of an existing government, may choose to exercise it. Any portion of such people that *can*, may revolutionize, and make their *own*, or so much of the territory as they inhabit. More than this, a *majority* of any portion of such people may revolutionize, putting down a minority, intermingled with, or near about them, who may oppose their movement. Such minority, was precisely the case, of the Tories of our own revolution. It is a quality of revolutions not to go by *old* lines, or old laws; but to break up both and make new ones. . . .¹⁴

These words would return to haunt Lincoln since Southerners, in 1861, proclaimed that they were simply exercising their "right of revolution" as Americans had in 1776. Perhaps Lincoln's qualifying phrase "having the power" could be cited to save him. Obviously, in actual practice in 1861 his attachment to the majority rule overrode any theoretical belief he held for the right of revolution.

But what of the minority? Did they not have other rights? How could their rights be preserved? According to Lincoln, they could be best preserved within the framework of constitutional government, where certain areas were set beyond the reach of the majority. Hence the South need not worry, as a minority section, that its rights would be disregarded. The Constitution had insured recovery of fugitive slaves, for example, against interference by a majority. So, too, religious liberty and freedom of the press lay beyond the majority's power.

As Lincoln saw it popular government was based on the devotion of the people to their government. If affection for, and attachment to the government withered, as Lincoln feared it might where disregard for laws grew, then a spirit of lawlessness would arise that would endanger government itself. In the resulting anarchy, or even before anarchy came, still another danger might develop. Lincoln asked:

Is it unreasonable then to expect . . . that some man possessed of the loftiest genius, coupled with ambition sufficient to push it to its utmost stretch, will at some time, spring up among us? And when such a one does, it will require the people to be united with each other; attached to the government and laws, and generally intelligent, to successfully frustrate his designs.¹⁵

Curiously enough, Lincoln himself was charged during the Civil War of being a dictator. The subject troubled him, for when it was rumored that General Joseph Hooker had declared that the country needed a dictator, Lincoln wrote Hooker: "Only those generals who gain successes can set up dictators. What I now ask of you is military success, and I will risk the dictatorship."¹⁶

One idea that runs steadily through the stream of Lincoln's thought is that American democracy is a great experiment, that for the first time in human affairs it inspired men to try to make government by the people work. The Founding Fathers, according to Lincoln, were so hopeful of "the success of that experiment" that

Their destiny was *inseparably* linked with it. Their ambition aspired to display before an admiring world, a practical demonstration of the truth of a proposition, which had hitherto been considered, at best no better, than problematical; namely, the *capability of a people* to govern themselves. If they succeeded, they were to be immortalized . . . and toasted through all time. If they failed, they were to be called knaves and fools, and fanatics for a fleeting hour; then to sink and be forgotten.¹⁷

Lincoln, like Jefferson before him, was optimistic that popular government was "in the full tide of successful experiment." But it was still an experiment in Lincoln's day and the success of the experiment would be determined by the war. Whether it would

survive this ordeal by fire concerned not only Americans but all men everywhere:

And this issue embraces more than the fate of these United States. It presents to the whole family of man, the question, whether a constitutional republic, or a democracy—a government of the people, by the same people—can, or cannot, maintain its territorial integrity, against its own domestic foes. It presents the question, whether discontented individuals, too few in numbers to control administration, according to organic law, in any case, can always, upon the pretense, break up their government, and thus practically put an end to free government upon the earth. It forces us to ask: “Is there, in all republics, this inherent, and fatal weakness?” “Must a government, of necessity, be too *strong* for the liberties of its own people, or too weak to maintain its own existence?”¹⁸

This view Lincoln would restate often during his years as President. As he said on another occasion:

Our popular government has often been called an experiment. Two points in it, our people have already settled—the successful *establishing*, and the successful *administering* of it. One still remains—its successful *maintenance* against a formidable attempt to overthrow it. It is now for them to demonstrate to the world, that those who can fairly carry an election, can also suppress a rebellion—that ballots are the rightful, and peaceful successors of bullets; and that when ballots have fairly and constitutionally, decided, there can be no successful appeal, back to bullets; that there can be no successful appeal, except to ballots themselves, at succeeding elections. Such will be a great lesson of peace; teaching men that what they can-

not take by an election, neither can they take it by a war—teaching all, the folly of being the beginners of a war.¹⁹

GOVERNMENT AND DEMOCRACY: Davis

Brought up, like other Americans of his generation, in the tradition of John Locke and Thomas Jefferson, Jefferson Davis subscribed to the social compact theory of government. Not only were men capable of governing themselves, but self-government was right and necessary. "If men were cast upon a desert island," Davis postulated, echoing Locke's state of nature, "over which no jurisdiction was exercised, they would find themselves necessitated to establish rules which would subsist between themselves. . . ." This was a "social function necessary to preserve peace in the absence of any controlling power; essential to conserve the relations of persons and property."²⁰ Government originated in, rested upon, and derived its powers from the consent of the governed. He believed, he said in 1861, in "the eternal principle that government rests upon the consent of the governed; and that every people have a right to change, modify, or abolish a government when it ceases to answer the ends for which it was established."²¹

"It is a truism," he remarked in December 1860, "that in free governments laws rest upon public opinion, fall powerless before its determined opposition."²² The people always retained ultimate, sovereign power and could resume its exercise when government failed to perform effectively its proper function. On proper function of government in a democratic society, Davis agreed with Lincoln: government existed to secure the rights of persons and property. But he differed substantially from Lincoln as to the rights that deserved priority and the means necessary to insure those rights. Though Lincoln maintained that the will of the majority was sufficient guardian, Davis had serious doubts about the "rule of numbers," which might severely impair rights of the minority. When it was argued in the Senate that federal aid should go to

river and harbor improvements because such improvement would benefit many people, Davis protested. He did not believe, "that the interest being sufficiently large to exercise a controlling power, the compact Constitution is silenced by the voice of the multitude, and the minority are bound as such to the support of the majority because it is great." He went on to object:

This is the reverse of the principles of our Government, and of all sound theory of social and political organization. Individual and state associations are instituted not for the advantage of the strong but for the protection of the weak; not to give to him who already has an abundance, but to secure to him who has little that which he already has. This is the great object of human government, and the principle here asserted seems to me to be not only violative of this object, but of all fixed principles of justice between man and his fellow-man. . . .²³

According to Davis the Constitution formed the shield of the minority against the unjust, overbearing action of a forceful majority. But what if a domineering majority disregarded the limits set by the Constitution? As early as 1851 he viewed apprehensively the tendency of the times toward consolidation. He maintained:

The doctrine that the majority in Congress, with the approval of the President, can pass any law which their discretion may dictate, and that there is no remedy other than appeal to the Supreme Court, is to make the federal government "the exclusive or final judge of the extent of the power delegated to itself." To this it would be only necessary to add the power to coerce the States, and consolidation would be complete. . . . It is in the nature of things that the South, being the minority, should resist such tendency, and this has been our history. It is no

longer, however, within the power of their representatives in Congress to check it, and reliance must be had upon the States, which Mr. Madison said formed our security against projects of usurpation by the federal government, and to which Mr. Jefferson looked for the preservation of the constitution, when he claimed for them the right to judge as well on infractions as to the mode and means of redress. Your representatives can do but little more than serve as faithful sentinels to warn you of approaching danger. The rest must be left where I have always proposed to leave it, to the decision of the State.²⁴

While Davis was much exercised over the problem of majority rule and minority rights in different parts of the country, he paid little heed to the problem of minority rights within his own section or state where Negro slaves enjoyed no appeal to the Supreme Court nor to secession to protect their rights. But Davis and Lincoln concurred in holding that representative government was the best working arrangement for reaching decisions yet devised by society.

THE AMERICAN ECONOMY: Lincoln

Lincoln's economic views were in large part corollaries of his views on society and government in general, as is evident in these words: "My faith in the proposition that each man should do precisely as he pleases with all that is exclusively his own, lies at the foundation of the sense of justice there is in me. I extend the principle to communities of men as to individuals."²⁵

This point of view expressed the economic philosophy generally held in nineteenth century America: Each man possessed certain abilities and talents, which he should seek to develop fully and use energetically for his own benefit and advancement. But then, if all men were left free within broad limits thus to pursue their own

economic interests, the result would be a prosperous, wealthy democracy. "The leading role for the lawyer," according to Lincoln, ". . . is diligence"; and he would apply the rule to "the man of every other calling" as well.²⁶

Lincoln's observations on labor, property, and capital were usually made in application to some public question such as the tariff or bank or land policy, but they are indications of his economic thought. For example, in a tariff discussion he stated:

In the early days of the world, the Almighty said to the first of our race "In the sweat of thy face shalt thou eat bread;" and since then, if we except the *light* and the *air* of heaven, no good thing has been or can be enjoyed by us, without having first cost labour. And inasmuch [as] most good things are produced by labour, it follows that [all] such things of right belong to those whose labour has produced them. But it has so happened in all ages of the world, that some have laboured, and *others* have, without labour, enjoyed a large proportion of the fruits. This is wrong, and should not continue. To [secure] to each labourer the whole product of his labour, or as nearly as possible, is a most worthy object of any good government.²⁷

The world is agreed that *labor* is the source from which human wants are mainly supplied. There is no dispute upon this point. From this point, however, men immediately diverge. Much disputation is maintained as to the best way of applying and controlling the labor element. By some it is assumed that labor is available only in connection with capital—that nobody labors, unless somebody else, owning capital, somehow, by the use of the capital, induces him to do it. Having assumed this, they proceed to consider whether it is best that capital shall *hire* laborers, and thus induce them to work by their own consent; or *buy* them, and drive them to it without their consent.

Having proceeded so far they naturally conclude that all laborers are necessarily either *hired* laborers, or *slaves*. They further assume that whoever is once a *hired* laborer, is fatally fixed in that condition for life; and thence again that his condition is as bad as, or worse than that of a slave. This is the "mud-sill" theory.

But another class of reasoners hold the opinion that there is no such relation between capital and labor, as assumed; and that there is no such thing as a freeman being fatally fixed for life, in the condition of a hired laborer, that both these assumptions are false, and all inferences from them groundless. They hold that labor is prior to, and independent of, capital; that, in fact, capital is the fruit of labor, and could never have existed if labor had not *first* existed—that labor can exist without capital, but that capital could never have existed without labor. Hence they hold that labor is the superior—greatly the superior—of capital.

They do not deny that there is, and probably always will be a relation between labor and capital. The error, as they hold, is in assuming that the *whole* labor of the world exists with that relation. A few men own capital; and that avoid labor themselves, and with their capital, hire or buy, another few to labor for them. A large majority belong to neither class—neither work for others, nor have others working for them. Even in all our slave states, except South Carolina, a majority of the whole people of all colors, are neither slaves nor masters. In these free states, a large majority are neither *hirers* nor *hired*. Men, with their families—wives, sons and daughters—work for themselves, on their farms, in their houses and in their shops, taking the whole product to themselves, and asking no favors of capital on the one hand, nor of hirelings or slaves on the other. It is not forgotten that a considerable number of persons mingle their own labor with

capital; that is, labor with their own hands, and also buy slaves or hire freemen to labor for them; but this is only a *mixed* and not a distinct class. No principle stated is disturbed by the existence of this mixed class. Again, as has already been said, the opponents of the "*mud-sill*" theory insist that there is not, of necessity, any such thing as the free hired laborer being fixed to that condition for life. There is demonstration for saying this. Many independent men, in this assembly, doubtless a few years ago were hired laborers. And their case is almost if not quite the general rule.

The prudent, penniless beginner in the world, labors for wages awhile, saves a surplus with which to buy tools or land, for himself; then labors on his own account another while, and at length hires another new beginner to help him . . . The old general rule was that *educated* people did not perform manual labor. They managed to eat their bread, leaving the toil of producing it to the uneducated. This was not an insupportable evil to the working bees, so long as the class of drones remained very small. But *now*, especially in these free states, nearly all are educated—quite too nearly all, to leave the labor of the uneducated, in any wise adequate to the support of the whole. It follows from this that henceforth educated people must labor. Otherwise, education itself would become a positive and intolerable evil. No country can sustain, in idleness, more than a small percentage of its numbers. The great majority must labor at something productive. From these premises the problem springs, "How can *labor* and *education* be the most satisfactorily combined?"

By the "*mud-sill*" theory it is assumed that labor and education are incompatible; and any practical combination of them impossible. . . . According to that theory, the education of laborers is not only useless, but pernicious,

and dangerous. . . .

But free labor says "no!" Free labor argues that, as the Author of man makes every individual with one head and one pair of hands, it was probably intended that heads and hands should cooperate as friends; and that that particular head, should direct and control that particular pair of hands. As each man has one mouth to be fed, and one pair of hands to furnish food, it was probably intended that that particular pair of hands should feed that particular mouth—that each head is the natural guardian, director and protector of the hands and mouth inseparably connected with it; and that being so, every head should be cultivated, and improved, by whatever will add to its capacity for performing its charge. In one word free labor insists on universal education.²⁸

The idea that no man was destined to remain in a condition of dependence in poor circumstances but that through his own talents he should rise according to his abilities on the social and economic ladder runs all through Lincoln's thoughts. It seems, in fact, to dominate it. This is understandable, for he himself had been a poor backwoods boy who rose by dint of his own efforts from poverty to genteel prosperity as a Springfield lawyer. The crucially significant thing about American society was the maintenance of its mobility and fluidity, in which no rigid class structure prevented a man from bettering himself through his own abilities—this was a unique and important contribution to human history. In 1856 Lincoln refuted the assertions of Southerners

. . . that their slaves are better off than Northern freemen. What a mistaken view . . . of Northern laborers! They think that men are always to remain laborers here—but there is no such class. The man who labored for another last year, this year labors for himself, and next year he will hire others to labor for him.²⁹

In Lincoln's time, this was not mere wishful thinking. As he said in 1859—in one of his hundreds of similar observations:

There is no permanent class of hired laborers amongst us. Twenty-five years ago I was a hired laborer. The hired laborer of yesterday labors on his own today; and will hire others to labor for him tomorrow. Advancement—improvement in condition—is the order of things in a society of equals.³⁰

The following year in a speech delivered to a New England audience, Lincoln remarked:

*I am glad to see that a system of labor prevails in New England under which laborers CAN strike when they want to, where they are not obliged to work under all circumstances, and are not tied down and obliged to labor whether you pay them or not! . . . What is the true condition of the laborer? I take it that it is best for all to leave each man free to acquire property as fast as he can. Some will get wealthy. I don't believe in a law to prevent a man from getting rich; it would do more harm than good. So while we do not propose any war upon capital, we do wish to allow the humblest man an equal chance to get rich with everybody else. When one starts poor, as most do in the race of life, free society is such that he knows he can better his condition; he knows that there is no fixed condition of labor, for his whole life. I am not ashamed to confess that twenty-five years ago I was a hired laborer, mauling rails, at work on a flat-boat—just what might happen to any poor man's son! I want every man to have a chance—and I believe a black man is entitled to it—in which he *can* better his condition—when he may look forward and hope to be a hired laborer*

this year and next, work for himself afterward, and finally hire men to work for him! That is the true system.³¹

Progress and free labor were inseparable in Lincoln's view.

As President, Lincoln rephrased his ideas in his first annual message to Congress on December 3, 1861, by calling attention to

. . . the effort to place *capital* on an equal footing with, if not above *labor*, in the structure of government. It is assumed that labor is available only in connection with capital; that nobody labors unless somebody else, owning capital, somehow by the use of it, induces him to labor. This assumed, it is next considered whether it is best that capital shall *hire* laborers, and thus induce them to work by their own consent, or *buy* them, and drive them to it without their consent. Having proceeded thus far, it is naturally concluded that all laborers are either *hired* laborers, or what we call slaves. And further it is assumed that whoever is once a hired laborer, is fixed in that condition for life. Now, there is no such relation between capital and labor as assumed; nor is there any such thing as a free man being fixed for life in the condition of a hired laborer. Both these assumptions are false, and all inferences from them are groundless.

Labor is prior to, and independent of, capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed. Labor is the superior of capital, and deserves much the higher consideration. Capital has its rights, which are as worthy of protection as any other rights. Nor is it denied that there is, and probably always will be, a relation between labor and capital, producing mutual benefits. The error is in assuming that the whole labor of community exists within that relation. A few men own capital, and that few avoid labor themselves, and, with their capital, hire or buy another few to labor for

them. A large majority belong to neither class—neither work for others, nor have others working for them. In most of the southern States, a majority of the whole people of all colors are neither slaves nor masters; while in the northern a large majority are neither hirers nor hired. Men with their families—wives, sons and daughters—work for themselves, on their farms, in their homes, and in their shops, taking the whole product to themselves, and asking no favors of capital on the one hand, nor of hired laborers or slaves on the other. It is not forgotten that a considerable number of persons mingle their own labor with capital—that is, they labor with their own hands, and also buy or hire others to labor for them; but this is only a mixed, and not a distinct class. No principle stated is disturbed by the existence of this mixed class.

Again: as has already been said, there is not, of necessity, any such thing as the free hired laborer being fixed to that condition for life. Many independent men everywhere in these States, a few years back in their lives, were hired laborers. The prudent, penniless beginner in the world, labors for wages for awhile, saves a surplus with which to buy tools or land for himself; then labors on his own account another while, and at length hires another new beginner to help him. This is the just, and generous and prosperous system which opens the way to all—gives hope to all, and consequent energy and progress and improvement of condition to all. No men living are more worthy to be trusted than those who toil up from poverty—none less inclined to take, or touch, aught which they have not honestly earned. Let them beware of surrendering a political power which they already possess, and which, if surrendered, will surely be used to close the door of advancement against such as they, and to fix new disabilities and burdens upon them till all liberty shall be lost.³²

In his reply to the New York Workingmen's Democratic Republican Association on March 21, 1864, Lincoln wrote:

The strongest bond of sympathy, outside the family relation, should be one uniting all working people, of all nations, and tongues and kindreds. Nor should this lead to a war upon property, or the owners of property. Property is the fruit of labor—property is desirable—is a positive good in the world. That some should be rich, shows that others may become rich, and hence is just encouragement to industry and enterprise. Let not him who is houseless pull down the house of another, but let him labor diligently and build one for himself, thus by example assuming that his own shall be safe from violence when built.³³

Lincoln believed further that it was a proper function of government to encourage economic growth and improvement. In his early years as an Illinois legislator he favored appropriations to build internal improvements in the state. Later he ran for President on a platform that urged federal assistance for the construction of a railroad to the Pacific. His views and actions on specific economic questions such as tariff, banking, and land policies will be explored later.

THE AMERICAN ECONOMY: Davis

In general economic outlook, Davis shared the view of Lincoln and other contemporaries that allowing each individual freedom to pursue his own economic interests brought about the economic well being of society as a whole. If a man applied himself to his work he would inevitably climb the ladder to success. Davis asserted: "Self-interest and free competition for labor will, wherever laborers are abundant, give to the rich the power to oppress the

poor. We cannot legislate to destroy self-interest for that lies at the foundation of material progress, and our efforts must be directed to unifying the interests of labor and capital so far as this may be done. . . ." ³⁴ In his own experience Davis had seen his brother Joseph rise from a poor pioneer farmer to wealthy plantation owner. And his own career had roughly duplicated his brother's. He himself had worked in the fields with his slaves at Brierfield plantation. Then with the rapid rise in land values and the increasing demand for cotton in a growing world market, his Mississippi acres yielded a golden harvest of financial independence. The system that had effected an increase in economic production through individual efforts naturally seemed to him good. And those larger economic factors responsible for profits from cotton planting in the 1830's and 1840's he quite understandably overlooked.

Land, Davis concluded, was society's true source of wealth and prosperity. Hence land owners were the proper guardians of the community's economic welfare; and an enlightened, landholding aristocracy was best qualified by virtue of ability, social position, and economic interest to make essential decisions and steer the course for all. Political power was then a natural adjunct of wealth and social eminence. Labor, he conceded, was important, but important only from its application to the land. Those who controlled the land then control labor. The rights of property he considered paramount. In fact, he implied government existed primarily for the purpose of protecting these rights. To Northern abolitionists advocating destruction of slavery, Davis extended "a solemn warning . . . that the doctrines you are preaching against us may come back, sooner or later, to plague you; that they will initiate in your midst a revolution destructive to all the rights of property and to the safety of society." ³⁵ Abolitionists were in effect socialists. If their efforts to abolish slavery succeeded, all property rights in both North and South would be endangered. Disorder and chaos would result—a frightful prospect, as Davis saw it.

On the economic value of a slave-labor system Davis spoke frequently and forcefully. His opinion, briefly stated, was that the system was beneficial to both owner and slave. The owner enjoyed the advantages of a stable labor force free from controversy over wages, hours, and working conditions; and of such division and specialization of labor that the agricultural tasks could be speedily and efficiently accomplished. The laborer enjoyed the advantages of steady employment, social security from cradle to the grave, and what were called "civilizing influences." For Southern society as a whole, Davis saw additional social benefits:

I say that the lower race of human beings that constitute the substratum of what is termed the slave population of the South, elevates every white man in our community. I say it is there true that every mechanic assumes among us the position which only a master workman holds among you [in the North]. Hence it is that the mechanic in our southern States is admitted to the table of his employer, converses with him on terms of equality—not merely political equality, but an actual equality—wherever two men come in contact. . . . It is the presence of a lower caste, those lower by their mental and physical organization, controlled by the higher intellect of the white man, that gives this superiority to the white laborer. Menial services are not therefore performed by the white man. We have none of our brethren sunk to the degradation of being menials. . . . [Slavery] raises white men to the same equal level, . . . dignifies and exalts every white man by the presence of another race. I say it in no terms of disparaging comparison with others. I say but what has been with me a deliberate conviction, that it is promotive of, if not essential to, the preservation of the higher orders of republican civilization.³⁶

Further, Davis maintained that "slave labor bears to capital as kind a relation as can exist between them anywhere; that it removes from us all that controversy between the laborer and the capitalist, which has filled Europe with starving millions and made their poorhouses so onerous."³⁷

Although Davis spoke the language of free, competitive, individual enterprise, he believed that it was sometimes proper for the government to intervene in the economy. He believed, for example, that although state governments should encourage banking as an instrument to facilitate financial transactions, a policy in Mississippi was undesirable that would have deprived creditors of their property rights by allowing state-chartered banks, which were in danger of failing, to forfeit their assets to the state and thereby forestall repayment of the bank's obligations.³⁸ Even though his strict construction views and his state rights ideas often got in the way, Davis nevertheless maintained that in certain limited ways the federal government could stimulate economic development. As Secretary of War in Franklin Pierce's cabinet, he favored policies to build a railroad to the Pacific coast, to acquire Cuba, to open China and Japan to American trade, and to cultivate closer commercial relations with South America. These measures would secure economic benefits for all sections and interests of the country, the South receiving of course the lion's share.

Speaking particularly of the South in his inaugural address as Confederate President on February 18, 1861, Davis declared:

An agricultural people, whose chief interest is the export of commodities required in every manufacturing country, our true policy is peace, and the freest trade which our necessities will permit. It is alike our interest and that of all to whom we would sell, and from whom we would buy, that there should be the freest practicable restrictions upon the interchange of these commodities.³⁹

THE UNION: Lincoln

What was the nature of the Union? On this question men had differed from the time of the Republic's birth. Had the Founding Fathers in their wisdom created a consolidated nation or a confederation of sovereign, independent states bound together in formal compact by the Constitution? The Constitutional Convention had given no clear-cut answer, nor had the ratification debates of 1787-88 clarified it. Although the word "federal" was used to describe the government ordained by the Constitution, no consensus had developed on what the word meant. All agreed that the federal government enjoyed its powers by the consent of the governed and that sovereignty lay with the people. But equally honest, sincere men differed greatly over the question of whether sovereignty rested with the people of each of the states as a separate political entity or with the people of the United States en masse. Disagreement over this question had consumed much time, energy, and debate ever since the days of Jefferson and Hamilton. According to some, the question had been clearly settled by the Tenth Amendment which "reserved to the States respectively, or to the people" all powers not specifically delegated to the United States or prohibited to the States. Other equally respectable men did not think it had been settled.

Lincoln expressed his ideas many times on the nature of the Union. In his message to Congress on July 4, 1861, he attacked what he called the "sophism" of state rights, including the alleged right of secession, by denying "the assumption, that there is some omnipotent, and sacred supremacy pertaining to a *State*. . . ." The states had no independent, sovereign status separate from the United States, Lincoln believed. He saw it thus:

Our States have neither more nor less power than that reserved to them, in the Union, by the Constitution—no one of them ever having been a *State out* of the Union. The original ones passed into the Union even *before* they

cast off their British colonial dependence; and the new ones each came into the Union directly from a condition of dependence, excepting Texas. . . . The new ones took the designation of States, on coming into the Union, while that name was first adopted for the old ones, in and by the Declaration of Independence. Therein the 'United Colonies' were declared to be "Free and Independent States;" but, even then, the object plainly was not to declare their independence of *one another*, or of the *Union*; but directly the contrary, as their mutual pledge, and their mutual action, before, at the time, and afterwards, abundantly show. The express plighting of faith, by each and all of the original thirteen, in the Articles of Confederation, two years later, that the Union shall be perpetual, is most conclusive. Having never been States, either in substance, or in name, *outside* of the Union, whence this magical omnipotence of "State rights," asserting a claim of power to lawfully destroy the Union itself? Much is said about the sovereignty of the States; but the word, even, is not in the national Constitution; nor, as is believed, in any of the State constitutions. What is a "sovereignty," in the political sense of the term? Would it be far wrong to define it "A political community, without a political superior?" Tested by this, no one of our States, except Texas, ever was a sovereignty. And even Texas gave up the character on coming into the Union. . . . The States have their *status* in the Union, and they can have no other *legal status*. If they break from this, they can only do so against law, and by revolution. The Union, and not themselves separately, procured their independence, and their liberty. By conquest, or by purchase, the Union gave each of them, whatever of independence, and liberty it has. The Union is older than any of the States; and in fact, it created them as States. . . . Not one of them ever had a State constitution, independent of the Union.

Of course, it is not forgotten that all the new States framed their constitutions, before they entered the Union; nevertheless, dependent upon, and preparatory to, coming into the Union.

Unquestionably the States have the powers, and rights, reserved to them in, and by the National Constitution; but among these, surely, are not included all conceivable powers, however mischievous or destructive; but at most, such only, as were known in the world, at the time, as governmental powers; and certainly, a power to destroy the government itself, had never been known as a governmental—as merely an administrative power. This relative matter of National power, and State rights, as a principle, is no other than the principle of *generality*, and *locality*. Whatever concerns the whole, should be confided to the whole—to the general government; while whatever concerns *only* the State, should be left exclusively, to the State. This is all there is of original principle about it. Whether the National Constitution, in defining the boundaries between the two, has applied the principle with exact accuracy, is not to be questioned. We are all bound by that defining, without question.

The seceders insist that our Constitution admits of secession. They have assumed to make a National Constitution of their own, in which, of necessity, they have either *discarded*, or *retained*, the right of secession, as they insist, it exists in ours. If they have discarded it, they thereby admit that, on principle, it ought not to be in ours. If they have retained it, by their own construction of ours, they show that to be consistent they must secede from one another, whenever they shall find it the easiest way out of their debts, or effecting any other selfish, or unjust object. The principle itself is one of disintegration, and upon which no government can possibly endure.⁴⁰

Lincoln argued in his first inaugural address that the Union was perpetual, a point made clear both by the plain language of the Constitution itself and the exercise of common sense.

Perpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to assert that no government proper, ever had a provision in its organic law for its own termination. Continue to execute all the express provisions of our national Constitution, and the Union will endure forever—it being impossible to destroy it, except by some action not provided for in the instrument itself.

Again, if the United States be not a government proper, but an association of States in the nature of contract merely, can it as a contract, be peaceably made, by less than all the parties who made it? One party to a contract may violate it—break it. . . . but does it not require all to lawfully rescind it?

Descending from these general principles, we find the proposition that, in legal contemplation, the Union is perpetual, confirmed by the history of the Union itself. The Union is much older than the Constitution. It was formed in fact, by the Articles of Association in 1774. It was matured and continued by the Declaration of Independence in 1776. It was further matured and the faith of all the then thirteen States expressly plighted and engaged that it should be perpetual, by the Articles of Confederation in 1778. And finally, in 1787, one of the declared objects for ordaining and establishing the Constitution, was “to form a more perfect Union.”

But if destruction of the Union, by one, or by a part only, of the States, be lawfully possible, the Union is *less* perfect than before the Constitution, having lost the vital element of perpetuity.

It follows from these views that no State, upon its own

mere notion, can lawfully get out of the Union . . . and that acts of violence within any State or States, against the authority of the United States are insurrectionary or revolutionary. . . .⁴¹

Lincoln held the opinion that the United States is a national, organic whole, with full powers to preserve its own existence. His message to Congress on July 4, 1861, reechoing the nationalism of John Marshall, declared:

The Constitution provides, and all the States have accepted the provision, that "The United States shall guarantee to every State in this Union a republican form of government." But, if a State may lawfully get out of the Union, having done so, it may also discard the republican form of government; so that to prevent its going out, is an indispensable *means*, to the *end*, of maintaining the guaranty mentioned; and when an end is lawful and obligatory, the indispensable means to it, are also lawful, and obligatory.⁴²

Lincoln fully concurred in the general belief that the people were sovereign, but that sovereignty resided with the whole body of the people of the United States, not with just a part of the people in a geographical subdivision known as a state. The whole people, through the Constitution, had endowed the United States with certain powers to deal with problems and concerns of common interest to the whole people. And although the national government was one of limited powers, it was supreme in the areas where power had been granted through the Constitution, and it could exercise its powers broadly. He fully subscribed to a liberal interpretation of the Constitution, allowing ample latitude in choice of means. This was in the Hamilton-Marshall tradition of achieving the ends set forth in the document itself. Delegated powers were to be implemented by a large extension of specific means.

THE UNION: Davis

To Lincoln the Union was flexible and adaptable; to Davis it was rigid and unchanging. The United States, he asserted, "... formed a fixed 'mechanism' that was 'wonderful', surpassing that which the solar system furnished for our contemplation; for it had no center of gravitation; each planet was set to revolve in an orbit of its own, each moving by its own impulse, and all attracted by affections which countervailed each other."⁴³

This pretty figure of speech would seem to place Davis squarely in the state rights school of thought. But his actions often belied his words. He acted at times as a nationalist, not as a state rights man, perhaps without realizing it. If his words are taken literally, he appears to have convinced himself of the soundness of the state rights doctrine. Although he conceded the sovereignty of the people, it was the sovereignty of the people within a state so he often spoke of the "sovereign states." In his opinion, the people of the states had formed the United States government and endowed it with certain limited powers to perform specified functions. Davis rested his position upon what he considered the convincing evidence of history, reason, and the law of the Constitution itself. "The Government of the United States," he maintained in May, 1860, "is a compact between the sovereign members who formed it; and if there be one feature common to all the colonies planted upon the shores of America, it is the desire for community independence." Pointing to the differences and antagonisms among the colonies in the seventeenth and eighteenth centuries, he insisted that "the only common idea was community independence—the right of each independent people to do as they pleased in their domestic affairs."

The American Revolution had furthered this desire. "The Declaration of Independence was made by the colonies, each for itself. The recognition of their independence was not for the colonies united, but for each of the colonies which had maintained its independence." Davis rejected as outright error "the theory that

this is a government of one people; that the Government of the United States was formed by a mass," as the nationalist argument of Webster and Lincoln contended. "When the Constitution was formed, the delegates were not elected by the people *en masse*, but they came from each one of the States; and when the Constitution was formed, it was referred, not to the people *en masse*, but to the States severally, and severally by them ratified and approved."⁴⁴ It was unthinkable that "men who fought the war of the Revolution" would voluntarily surrender the community independence and "that sovereignty which they had previously gained." "Reason forbids" the notion, "but if reason did not furnish a sufficient answer, the action of the States themselves forbids it." He pointed out that North Carolina and Rhode Island had remained independent states, not ratifying the United States Constitution for some time after the United States government had been launched, and to such states as New York, which expressly provided in its ratification resolutions that every power not clearly delegated by the Constitution to the United States "remains to the people of the several States, or to their respective State governments."⁴⁵

"Equality of rights between the States," Davis asserted, formed "the greatest principle which lay at the foundation of this fixed standard, the Constitution of the United States. . . . It was the essential requisite of the very idea of sovereignty in the State; of a compact voluntarily entered into between sovereigns."⁴⁶

In a passage of more than one hundred pages in his two-volume work, *The Rise and Fall of the Confederate Government*, Davis seeks to demonstrate that no such body as "the people of the United States in the aggregate" ever existed for any purpose, that the Constitution was made by and is supported by "the people of the several states" acting in their sovereign capacity. In support of this view he cites long passages from the records of the Constitutional Convention; the writings of Madison, Hamilton, and other Founding Fathers; *The Federalist Papers*; and the initial draft of the preamble of the Constitution, which read "We, the

people of the States of . . .,” followed by each state's name. Here he finds conclusive proof that the United States government “was organized, established, and ratified by the people of the several States; and no theories or assertions of a later generation can change or conceal this fixed fact, as it stands revealed in the light of contemporaneous records.” No transfer of sovereignty was intended or made in the Constitution; rather the people of the several states “retained . . . their sovereignty in its integrity—undivided and indivisible.”⁴⁷

In addition to history and reason, Davis cited the Tenth Amendment to support his conviction that the states retained sovereignty and equality of rights after joining the Union. If “powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people,” the United States government was one of limited, delegated powers. For every power it sought to exercise, according to Davis's strict construction doctrine, the Constitution would have to contain a specific grant. The powers delegated to the national government were to be used for the benefit of the people of all the states for the purposes designated in the Constitution—such as providing common defense, managing foreign relations, establishing a common currency, regulating foreign and interstate commerce and immigration, and managing other affairs the states could not manage conveniently for themselves.

The United States government could not legitimately take action in an area, for which no power had been granted to it by the states. Hence, regulation of virtually all domestic matters—education, crime, road building, banking, real estate sales, relations of employers and workers, and the like—remained in the hands of the states, for no power in these areas had been delegated to the federal government. A state could decide whether or not to exercise power in these areas. But what check could prevent federal interference with these domestic concerns of the states? What happened if the United States government attempted to exercise powers not granted to it? These questions found no clear answer in the Con-

stitution itself. Although some men held that the Supreme Court was the proper instrument to check federal excesses, the state-rights strict-constructionists generally maintained that, as part of the federal team, the Court was perforce prejudiced. Davis hoped, however, that the Constitution would serve as the "fixed standard." In the event that it was not strictly observed, the states themselves were the proper judges, not because they were necessarily impartial but because the people of the states as the sovereign source of federal powers knew which powers they had delegated and which they had withheld in the Constitution.⁴⁸

Some state rights men advocated as the appropriate remedy nullification of federal acts exceeding the constitutional grant of power. But Davis rejected nullification as improper, illogical, and unconstitutional. The only correct remedy, if federal abuses were excessive and long, was for a state to withdraw from "the compact," secede from the Union, and resume the separate, independent status as a sovereign.

Although Jefferson Davis spent long, tiring hours elaborating the doctrine of state rights and its ultimate corollary, secession, he labored under a measure of self-deception and some self-generated delusions. Not that there is any doubt of the sincerity of his oft-repeated assertions, but he was enough of a political realist to recognize the futility of implementing the logical extension of the state rights doctrine. In the 1850 crisis Davis shied away from separate state action which would lead to secession, the proper course if one adhered to his state rights theory. As the 1850's progressed, Davis still employed the language of state rights, but he moved more and more toward advocacy of the slave-holding states acting jointly in defense of their interests. When the ultimate test of the principle of state rights came with secession in 1860-61, Davis went along almost reluctantly. When as president he had to administer a Confederate government constructed by state rights men, Davis found no specific provision allowing secession in the Confederate Constitution, although it was certainly understood. But, more to the point, he administered the government vigorously,

showing little hesitation to sacrifice the interests of a single state, even his own, to further the cause of the entire Confederacy. As Professors William E. Dodd and Nathaniel W. Stephenson have aptly observed, Davis deserved being termed a "Southern nationalist" rather than a Southern state rights man.

III Problems and Issues

SLAVERY: Lincoln

Mid-century America became magnetized by the issue of slavery. By the late 1850's it was the all-absorbing, covering cloud, which so distorted, obscured, and emotionalized all other political, economic and social questions that men could neither think nor rationally discuss alternative solutions to the pressing problems of the day. In one sense it was an artificial issue, for slavery as a labor system had long existed in America without being considered a political issue. But now slavery became entangled with goals and ideals dear to Americans, such as the ideal of a society wherein liberty and equal rights were a reality. And, coming as it did, at a time when there was a driving desire to extend American territory, it was a very real political issue. Most Americans believed that any answer to the slavery question must be developed within the rules laid down by the Constitution, which gave legal recognition and protection to the "peculiar institution."

Negro slavery had of course existed since colonial times in all American colonies. In the wake of the Revolution, states from Pennsylvania northward made provision to end it within their borders. Slavery continued south of the Mason-Dixon line, although men in the older South considered it on the decline and bound to disappear in due course. The Constitution, written in 1787, recognized slavery in three ways: (1) three-fifths of the slaves were to be counted for taxation and determination of a state's representation in Congress; (2) slaves could be imported until 1808, when Congress prohibited the external slave trade; (3) runaway slaves were to be returned upon claim of the owner, a provision implemented by the congressional fugitive slave act of

1793. As to slavery in the federal territories, the Northwest Ordinance of 1787 prohibited slavery in the territory north of the Ohio River; but Congress made no such prohibition south of the Ohio. In the Louisiana Purchase area, Congress forbade slavery by the terms of the Missouri Compromise of 1820 in the unorganized region north of the 36°30' line. But it admitted Missouri as a slave state although it is north of the line.

Considerable antislavery sentiment developed after the War of 1812. The American Colonization Society, organized in 1816, made its greatest appeal in the upper South. The Society, which generated broad support, advocated purchasing and sending freed slaves to the new country of Liberia in Africa. In the 1830's a more dynamic abolition movement gained momentum in the North under such single-minded leaders as William Lloyd Garrison, Theodore Weld, the Tappan brothers, and James G. Birney. With the frenzied zeal of religious revivalists, the new reformers attacked slavery as a moral wrong contrary to both Christian faith and democratic doctrine and they demanded its immediate abolition. If the Constitution blocked abolition, men like Garrison would destroy the Constitution. Reaction against abolitionists engendered violent spasms: Southerners forced a closing of the mails to "incendiary" abolition literature and choked off congressional consideration of antislavery petitions. An Illinois mob lynched abolitionist editor Owen Lovejoy in 1837 and threw his press into the Mississippi River.

Abraham Lincoln entered Illinois politics at just this juncture. Lincoln's approach to the slavery question was pragmatic, cautious, middle-of-the-road. While the Lincoln legend paints him as an ardent, outspoken foe of slavery throughout his career, he played down actually or sidestepped the slavery issue before 1854 for fear of alienating voters who viewed abolition as needless, dangerous meddling. In Kentucky, where he was born, and in New Orleans which he had once visited, he had seen slavery's harsher aspects at first hand. But he thought political agitation of the question served no useful purpose. In fact, during his first

years in politics, he made no strong, direct public attack on slavery as such. His first public utterance on the subject came in 1837 when, as a Whig leader in the Illinois legislature, he declared together with a fellow legislator "that the institution of slavery is founded on both injustice and bad policy; but that the promulgation of abolition doctrines tends to increase rather than abate its evils" and "that the Congress . . . has no power, under the Constitution, to interfere with . . . slavery in the different states" and "that Congress . . . has the power . . . to abolish slavery in the District of Columbia; but that that power ought not to be exercised unless at the request of the people of said District."¹ In issuing this statement Lincoln delayed until after he had the Illinois legislature's approval to move the capital from Vandalia to Springfield—a decision on a practical matter that he considered much more vital than an abstract declaration on slavery.

During the next twelve years, when Lincoln campaigned regularly for the Whig party ticket and was himself elected congressman in 1846, he made few public pronouncements on slavery. In 1845 he made clear his opposition to interfering with slavery where it already existed: "I hold it to be a paramount duty for us in the free States, due to the Union of the States, and perhaps to liberty itself (paradox though it may seem) to let slavery alone; while on the other hand, I hold it to be equally clear, that we should never lend ourselves directly or indirectly to prevent that slavery from dying a natural death—to find new place for it to live in, when it can no longer exist in the old."² This position Lincoln held consistently, for the most part, until he issued the Emancipation Proclamation eighteen years later.

In keeping with this view, Congressman Lincoln opposed war with Mexico. In 1849 he introduced in the House a resolution to abolish slavery in the District of Columbia by granting freedom to all children born of slave mothers after January 1, 1850 or by compensating owners from government funds all who voluntarily emancipated their slaves. He coupled this with a provision for "active and efficient means to arrest, and to deliver to their owners,

all fugitive slaves escaping into said District.”³ When he received no support for the proposal he dropped it. But it was this fugitive slave provision that inspired Wendell Phillips, years later, unfairly to label Lincoln “that slave-hound from Illinois.” Lincoln confessed that he “hated to see the poor creatures hunted down,” yet he steadily maintained that federal fugitive slave legislation, adopted originally in 1793, reinforced in 1850, must be observed in the North because the Constitution clearly sanctioned it.

Toward the end of the Mexican War the Wilmot Proviso to bar slavery from the Mexican Cession lands was defeated in the Senate by Southern votes. And a proposal to extend the Missouri Compromise line to the Pacific, allowing slavery south of 36°30', was also turned down mainly by antislavery votes. Lincoln voted for the Wilmot Proviso “at least forty times” and voted against extending the Missouri Compromise line. His purpose was, of course, to prevent the spread of slavery into new regions.

When the gold rush of 1849 carried thousands of persons into California, settlers proposed a new state, drafted a state constitution prohibiting slavery, and applied for admission to the Union as a free state. In December 1849 Congress considered California's request for statehood. Accepting California would destroy the balance between free and fifteen slaveholding states. Southern leaders John C. Calhoun and Jefferson Davis opposed the admission of California, arguing that such a step would plunge the South into a permanent minority status at the mercy of an aggressive North. Such a situation would endanger the Union itself. And Southern mass meetings threatened secession if California entered as a free state. After months of bickering, Congress adopted a series of measures, which had been originally sponsored by Lincoln's political idol, Henry Clay: (1) California admitted as a free state; (2) territorial governments created for New Mexico and Utah without mention of slavery; (3) a more severe fugitive slave act; (4) the slave trade, but not slavery, abolished in the District of Columbia; (5) Texas's western limits reduced.

What Lincoln thought of the Compromise of 1850 is not en-

tirely clear, for he was for the moment not active in politics and made no statement. Probably, in view of Clay's sponsorship and of the heavy Whig support of the measures, Lincoln, also a Whig, approved them too. In his 1852 eulogy of Clay, Lincoln praised his efforts in "devising a mode of adjustment." And, in a campaign speech in 1852, he referred approvingly to the Compromise, apparently because the vexing problem of slavery's status in the whole United States appeared settled for all time.

Early in 1854 Stephen A. Douglas, Illinois Senator, sponsored a bill, known as the Kansas-Nebraska Act, to organize territorial governments for these proposed federal territories. The bill incorporated the doctrine of "non-intervention by Congress with slavery in any of the States or Territories," expressly repealed the Missouri Compromise prohibition of slavery north of the 36°30' line. It provided that slavery was neither established nor prohibited but that new states were to be "received . . . with or without slavery, as their constitutions may prescribe." Douglas championed the measure on the ground that it embodied the democratic principle of self-government—popular sovereignty, he called it—whereby the people most directly concerned would decide whether slavery would exist among them. This, Douglas contended, was a reasonable adjustment of an explosive issue, a moderate path avoiding the pitfalls of the two extremes—Southerners calling for federal protection of slaveholding in federal territories and Northern free soilers urging federal prohibition of slaveholding in the territories. After months of wrangling Congress adopted the Kansas-Nebraska Act on May 30, 1854.

The response in the North was explosive. Senator Salmon P. Chase of Ohio issued an "Appeal of the Independent Democrats" which denounced Douglas's action as a violation of a solemn pledge and urged Northerners to resist this "enormous crime." Northerners joined so vehemently in castigating Douglas that he said he could travel from Boston to Chicago by the light of his burning effigies. Intense feeling against the new measure welded men into a new political combination known first as the "Anti-

Nebraska" party, a little later as the Republican party. Combining such diverse elements as old-line Whigs, free-soil Democrats, and radical abolitionists, the new group firmly opposed further extension of slavery. While full harmony among such oddly matched bedfellows was not immediately possible, anti-Nebraska feeling was so strong that the new party experienced phenomenal success in state and congressional elections in the fall of 1854.

Since "the repeal of the Missouri Compromise aroused him as he had never been aroused before," Lincoln plunged energetically into the 1854 campaign, stumping for Anti-Nebraska candidates. His concern over slavery extension and his realization that "his speeches at once attracted more attention than they had ever before done,"⁴ prompted Lincoln to devote more time to politics. In his public appearances he was careful to point out that although he was not an abolitionist, he was deeply opposed to the spread of slavery. From 1854 until he became President, blocking the extension of slavery was the keystone of Lincoln's position.

Why did he oppose slavery extension? The repeal of the Missouri Compromise, which the Kansas-Nebraska Act embodied, was wrong, for it indicated "real zeal for the spread of slavery." "I hate it," he said at Peoria, "because of the monstrous injustice of slavery itself. I hate it because it deprives our republican example of its just influence on the world—enables the enemies of free institutions, with plausibility, to taunt us as hypocrites. . . ." ⁵ To Douglas's statements that it was not for him, Douglas, to dictate policy to the people of Kansas or Nebraska and that he was indifferent as to whether they "voted it up or voted it down," Lincoln replied:

. . . inasmuch as you do not object to my taking my hog to Nebraska, therefore I must not object to your taking your slave. Now I admit this is perfectly logical, if there is no difference between hogs and negroes. But while you thus require me to deny the humanity of the negro, I wish to ask whether you of the South yourselves, have ever

been willing to do as much? It is kindly provided that of all those who come into the world, only a small percentage are natural tyrants. That percentage is no larger in the slave states than in the free. The great majority, south as well as north, have human sympathies, of which they can no more divest themselves than they can of their sensibility to physical pain. These sympathies in the bosoms of the Southern people, manifest in many ways, their sense of the wrong of slavery, and their consciousness that, after all, there is humanity in the negro.⁶

To the Douglas argument that the Kansas-Nebraska Act merely applied the sacred right of self-government, Lincoln responded:

The doctrine of self-government is right—absolutely and eternally right—but it has no just application, as here attempted. Or perhaps I should rather say that whether it has such just application depends upon whether a negro is *not* or *is* a man. If he is *not* a man, why in that case, he who *is* a man may, as a matter of self-government, do just as he pleases with him. But if the negro *is* a man, is it not to that extent, a total destruction of self-government, to say that he too shall not govern *himself*? When the white man governs himself, that is self-government; but when he governs himself, and also governs *another* man, that is *more* than self-government—that is despotism. If the negro is a man, why then my ancient faith teaches me that “all men are created equal;” and that there can be no moral right in connection with one man’s making a slave of another.⁷

Lincoln realized that the extension of slavery to Nebraska concerned all Americans, especially the free farmers of the Northwest who looked hopefully beyond for new farm land for themselves and their sons.

The whole nation is interested that the best use shall be made of these territories. We want them for the homes of free white people. This they cannot be, to any considerable extent, if slavery shall be planted within them. Slave states are places for poor white people to remove FROM; not to remove TO. New free states are the places for poor people to go to and better their condition. For this use, the nation needs these territories. . . .

Finally, I insist, that if there is ANY THING which it is the duty of the WHOLE PEOPLE to never entrust to any hands but their own, that thing is the preservation and perpetuity, of their own liberties, and institutions. And if they shall think, as I do, that the extension of slavery endangers them, more than any, or all other causes, how recreant to themselves, if they submit the question, and with it, the fate of their country, to a mere handful of men, bent only on temporary self-interest. If this question, of slavery extension were an insignificant one—one having no power to do harm—it might be shuffled aside in this way. But being, as it is, the great Behemoth of danger, shall the strong grip of the nation be loosened upon him, to entrust him to the hands of such feeble keepers?⁸

As an aspiring political leader, Lincoln had to consider two opposing views held by many Illinois constituents. He had already indicated his agreement with the belief that slavery and slavery extension were morally wrong. With the other, that Negroes were not entitled to social and political equality, he now dealt:

When it is said that the institution exists, and that it is very difficult to get rid of it, in any satisfactory way, I can understand and appreciate the saying. I surely will not blame them [Southern people] for not doing what I should not know how to do myself. If all earthly power were given me, I should not know what to do, as to the exist-

ing institution. My first impulse would be free all the slaves, and send them to Liberia—to their native land.⁹

But immediate colonization he thought impossible.

What did Lincoln propose for the present? The Kansas-Nebraska Act, which allowed possible extension of slavery should be repealed. The Missouri Compromise should be restored because the elimination of slavery was at the time neither possible nor constitutional. Such action would revive “the spirit of mutual concession,” “restore the national faith, the national confidence, the national feeling of brotherhood,” and help preserve the Union, which the Kansas-Nebraska Act had undermined.¹⁰

Lincoln’s concern over the spread of slavery increased as settlers moved into eastern Kansas where fighting flared between pro and anti-slavery men. “I do oppose the extension of slavery,” he wrote his friend Joshua F. Speed in 1855, “because my judgment and feeling so prompt me.”¹¹ And the following year campaigning for Republican presidential candidate John C. Fremont in his race against James Buchanan, Lincoln declared: “The question is simply this: Shall slavery spread into the new territories or not?” To those who considered slavery only the concern of the Kansas settlers, not of the residents of the older states, Lincoln explained: “There are several reasons why I think it is our business.” For one thing a good-sized slave population gave the voters of a slave state proportionately more influence in Congress than the voters of a free state. “Have we no interest that the white man of the North shall be the equal of the white man of the South?” he asked. And he went on:

Have we no interest in the free territories of the United States—that they should be kept open for the homes of free white people? As our Northern states are growing more and more in wealth and population, we are continually in want of an outlet, through which it may pass out to enrich our country. In this we have an interest—a deep and abiding interest. There is another thing. . . .¹²

In the Union-shaking Dred Scott decision of 1857 the United States Supreme Court pronounced on the question of slavery in the territories. Dred Scott, a slave, sued for his freedom on the grounds that his master had taken him from Missouri into federal territory, where slavery was excluded by the Missouri Compromise. The Court's majority ruled that as a Negro slave Scott was not a citizen and therefore could not sue in federal court; that he did not become free by virtue of his residence in free territory because slaves were property in the meaning of the Constitution; and that the Fifth Amendment prohibited Congress from depriving an owner of his property. Congress could not bar slavery in federal territories; and the Missouri Compromise was therefore unconstitutional. This staggering blow knocked the props from under the platform of the Republican party which urged that Congress prohibit slavery extension into the territories. To Douglas and the Northern Democrats too the decision brought serious doubt on the constitutionality of "popular sovereignty."

In Illinois Lincoln, who was ambitious for office, faced an electorate holding diverse views on slavery in the abstract, on slavery in the territories, and on Negroes. Only a few—the ardent anti-slavery men—were concerned with slavery as an abstract, moral question. But this group, which came close to holding a balance of power between Democrats and Republicans, was therefore not to be alienated, particularly by a new party or a new candidate for office. Although Lincoln inclined toward this group, he insisted with vigorous regularity that he was not an abolitionist. A major portion of Illinois's population was clearly anti-Negro. Not only did the state not allow Negro suffrage, but Illinois voters had recently adopted by a referendum vote of 50,261 to 21,297 a legal provision barring Negroes from entering the state. This large group, which represented five out of seven voters, might be antagonized by a moral appeal for equal rights for Negroes. Democratic strategy, playing on this popular antagonism toward Negroes, called the opposition "Black Republicans," an insinuation which non-abolitionist Republicans like Lincoln took pains to

refute. Republican newspapers in the Northwest claimed to represent the "White Man's Party," and Kansas Republicans wrote a provision into their free state Topeka constitution forbidding even free Negroes to enter the territory.

Lincoln's appeal was skillfully pitched to win both the anti-slavery and the anti-Negro men. Both groups were disturbed over the prospect of slavery in the territories; over the supposed threat of extending slavery into the free states. Thus in his Peoria speech of 1854 Lincoln asserted: "The whole nation is interested that the best use shall be made of these territories. *We want them for homes of free white people. This they cannot be . . . if slavery shall be planted within them.* Slave states are places for poor white people to remove from, not to remove to."¹³ This was the danger: Slavery might keep free men from improving themselves. And if slavery could block freedom in areas formerly reserved only for free men, Lincoln suggested it might break down freedom elsewhere, even in the free states. It must be checked before nationwide slavery endangered freedom everywhere.

But according to the Dred Scott decision Congress had no power to check the spread of slavery into the territories. How could Lincoln meet this disturbing situation? ". . . We think the Dred Scott decision is erroneous," he asserted in Springfield on June 26, 1857. "We know the court that has made it, has often overruled its own decisions, and we shall do what we can to overrule this. We offer no *resistance* to it."¹⁴ In Lincoln's eyes Chief Justice Taney was wrong in assuming that Negroes were not part of the people "for whom was made, the Declaration of Independence, or the Constitution of the United States." At the time of its framing the Declaration of Independence had been "held sacred by all." But states that had formerly allowed free Negroes to vote now withdrew that right. The Declaration's doctrine of equal rights had then been unjustly perverted, said Lincoln, speaking to the anti-slavery element of his audience. To the Douglas charge that in urging equal rights for all men Republicans were advocating intermarriage, Lincoln answered "There is a natural

disgust in the minds of all white people, to the idea of an amalgamation of the white and black races." Douglas, he went on to say, hopes:

. . . to appropriate the benefit of this disgust to himself. . . . He finds the Republicans insisting that the Declaration of Independence includes ALL men, black as well as white; and forthwith he boldly denies that it includes negroes at all, and proceeds to argue gravely that all who contend it does, do so only because they want to vote, and eat, and sleep, and marry with negroes! He will have it that they cannot be consistent else. Now I protest that counterfeit logic which concludes that, because I do not want a black woman for a *slave* I must necessarily want her for a *wife*. I need not have her for either, I can just leave her alone. In some respects she certainly is not my equal; but in her natural right to eat the bread she earns with her own hands without asking leave of anyone else, she is my equal, and the equal of all others.¹⁵

Then he summarized the chief difference between the political parties:

The Republicans inculcate, with whatever of ability they can, that the negro is a man; that his bondage is cruelly wrong, and that the field of his oppression ought not to be enlarged. The Democrats deny his manhood; deny, or dwarf to insignificance, the wrong of his bondage; so far as possible, crush all sympathy for him, and cultivate and excite hatred and disgust against him; compliment themselves as Union-savers for doing so; and call the indefinite outspreading of his bondage a "sacred right of self-government."¹⁶

In June 1858 Lincoln was nominated for United States Senator by the Illinois Republican Convention. In accepting the nomina-

tion Lincoln raised the "house divided" fear that slavery might engulf the North. Douglas's "popular sovereignty" answer to slavery in the territories has failed, Lincoln proclaimed, for

. . . agitation has not only, not *ceased*, but has *constantly augmented*. In *my* opinion, it *will* not cease, until a *crisis* shall have been reached, and passed.

"A house divided against itself cannot stand."

I believe this government cannot endure, permanently half *slave* and half *free*.

I do not expect the Union to be *dissolved*—I do not expect the house to *fall*—but I *do* expect it will cease to be divided.

It will become *all* one thing, or *all* the other.

Either the *opponents* of slavery, will arrest the further spread of it, and place it where the public mind shall rest in the belief that it is in course of ultimate extinction; or its advocates will push it forward, till it shall become alike lawful in *all* the states, *old* as well as *new*—*North* as well as *South*.

Have we no tendency to the latter condition?¹⁷

Lincoln went on to answer his own question. Step by step, he maintained, a conspiracy begun by Douglas and Franklin Pierce with the adoption of the Kansas-Nebraska Act and the repeal of the Missouri Compromise was forcing slavery into formerly free areas. In attempting to force the admission of Kansas as a slave state President Buchanan was abetting the conspiracy. And the Supreme Court furthered it by proclaiming that neither Congress nor a territorial legislature could exclude slavery from any federal territory. Only a final step remained: for the Supreme Court to declare that a state legislature could not prohibit the holding of property in the form of slaves. Even though Lincoln's charge of Democratic conspiracy was unfounded, it did serve to focus the spotlight of incisive logic on the dangers of slavery's spread.

During the summer and fall of 1858 Lincoln, as the Republican nominee for the Senate, jousted with incumbent Senator Douglas in a series of seven debates. Alternating in opening and closing, each candidate had an hour and a half to present his own arguments and a half-hour to rebut his opponent's. Douglas tried to prove Lincoln unfit to be Senator because he favored abolition and Negro equality, because he refused to accept the Supreme Court's Dred Scott ruling as the supreme law of the land, and because his "house divided" agitation would incite violent sectional conflict over slavery. Lincoln sharply refuted the indictments and renewed his charge that Douglas's popular sovereignty policy, together with the Dred Scott decision, would spread slavery throughout the country, and would destroy liberty, equal rights, and consequently popular government.

In denying the Douglas accusations Lincoln explained:

I have no purpose directly or indirectly to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so. I have no purpose to introduce political and social equality between the white and black races. There is a physical difference between the two, which in my judgment will probably forever forbid their living together upon the footing of perfect equality, and inasmuch as it becomes a necessity that there must be a difference, I, as well as Judge Douglas, am in favor of the race to which I belong, having the superior position. I have never said anything to the contrary, but I hold that notwithstanding all this, there is no reason in the world why the negro is not entitled to all the natural rights enumerated in the Declaration of Independence, the right to life, liberty and the pursuit of happiness. [Loud cheers.] I hold that he is as much entitled to these as the white man. I agree with Judge Douglas he is not my equal in many respects—certainly not in color, perhaps not in

moral or intellectual endowment. But in the right to eat the bread, without leave of anybody else, which his own hand earns, *he is my equal and the equal of Judge Douglas, and the equal of every living man.*¹⁸

Lincoln said that slavery should not be interfered with in the states where it existed already but its spread into new territories should be arrested. At Alton, Lincoln maintained that a reversal of the Dred Scott decision and a repeal of the Kansas-Nebraska Act would insure the "new territories being in such a condition that white men may find a home . . . where they can better their condition." Because the Alton audience included many newly arrived immigrants, he added that he wanted slave-free territories "as an outlet for free white people the world over—in which Hans and Baptiste and Patrick, and all other men from all over the world, may find new homes and better their condition in life." The question of perfect social and political equality between the races was a false issue, Lincoln argued; the real issue lay between those who viewed "slavery as a wrong" and "another class that *does not* look upon it as a wrong." The former would refuse to let it spread; the latter were indifferent to its extension.

Douglas pointed out a seeming contradiction in Lincoln's ideas on Negro equality. In Chicago Lincoln said on July 10, 1858:

Let us discard all this quibbling about this man and the other man, this race and that race and the other race being inferior, and therefore they must be placed in an inferior position. Let us discard all these things and unite as one people throughout this land, until we shall once more stand up declaring that all men are created equal.¹⁹

And at Charleston, Illinois, Lincoln declared on September 18, 1858:

I will say, then that I am not, nor ever have been, in favor of bringing about in any way the social and political

equality of the white and black races [applause]: that I am not, nor ever have been in favor of making voters or jurors of negroes, nor of qualifying them to hold office, nor to intermarry with white people. . . .

And inasmuch as they cannot so live, while they do remain together there must be the position of superior and inferior, and I as much as any other man am in favor of having the superior position assigned to the white race.²⁰

Douglas hoped that Lincoln's inconsistency here would cost him the votes of the anti-slavery and anti-Negro groups.

At the same time Lincoln forced Douglas into admitting that the people of a federal territory could make slave-holding impossible by failing to give it local police protection. This cost Douglas considerable support among Southern Democrats and helped widen the growing breach in the Democratic party.

Early in 1860 Lincoln was invited to New York to be seen and heard by eastern Republicans. There he delivered a major address at the Cooper Union. Of the Dred Scott decision he said:

The Court has substantially said, it is your constitutional right to take slaves into federal territories and to hold them there as property. When I say the decision was made in a sort of way, I mean it was made in a divided court, by a bare majority of judges, and they not quite agreeing with one another in the reasons for making it; that it is so made as that its avowed supporters disagree with one another about its meaning, and that it was mainly based upon a mistaken statement of fact—the statement that “the right of property in a slave is distinctly and expressly affirmed in the Constitution.”²¹

He said further

When this obvious mistake of the judges shall be brought to their notice, is it not reasonable to expect

that they will withdraw the mistaken statement, and reconsider the conclusion based upon it?²²

This was an erroneous reading of the Constitution. Rather, the framers of the Constitution viewed slavery "as an evil not to be extended," tolerated it as a necessary evil, but hoped that it was in "the course of ultimate extinction." Although the Dred Scott ruling would reverse the trend toward "ultimate extinction," the Republicans would work to prevent slavery's extension. Speaking of Southerners, Lincoln said: "Their thinking it [slavery] right, and our thinking it wrong, is the precise fact upon which depends the whole controversy." He added: "Wrong as we think slavery is, we can yet afford to let it alone where it is . . . ; but can we . . . allow it to spread into the national territories, and to overrun us here in these free states? If our sense of duty forbids this, then let us stand by our duty, fearlessly and effectively."²³

After electing Lincoln President in 1860 curiously enough the Republicans supported measures organizing the territories of Colorado, Nevada, and Dakota without prohibiting slavery there. And it was not Lincoln's but Douglas's policy on slavery in the territories that was adopted in effect, even though Lincoln defeated Douglas in the presidential contest.

Although he branded slavery a moral wrong, Lincoln freely admitted that he had no easy solution to the complex problem of what to do about it.

If all earthly power were given me, I should not know what to do, as to the existing institution. My first impulse would be to free all the slaves, and send them to Liberia, their native land. But a moment's reflection would convince me, . . . its sudden execution is impossible. . . . What then? Free them all, and keep them among us as underlings? Is it quite certain that this betters their condition? I think I would not hold one in slavery, at any rate; yet the point is not clear enough for me to denounce

people upon. What next? Free them, and make them politically and socially, our equals? My own feelings will not admit of this; and if mine would, we well know that those of the great mass of white people will not. Whether this feeling accords with justice and sound judgment, is not the sole question, if indeed, it is any part of it. A universal feeling, whether well or ill founded, cannot be safely disregarded. We cannot, then, make them equals. It does seem to me that systems of gradual emancipation might be adopted; but for their tardiness in this, I will not undertake to judge our brethren of the South.²⁴

In 1855 Lincoln despaired of any immediate solution. He observed: "The Autocrat of all the Russias will resign his crown, and proclaim his subjects free republicans sooner than will our American masters voluntarily give up their slaves."²⁵

From 1855 until 1860, Lincoln steadily opposed the extension of slavery into federal territories; he did not favor interference with it where it already existed and finally, in September, 1862 he issued his famous Emancipation Proclamation as a war measure.

SLAVERY: Davis

The frequent tone of apology for slavery in Southern utterances of the late eighteenth and early nineteenth centuries is missing from the words of Jefferson Davis. He spoke and wrote much on the South's "peculiar institution," defending it vigorously and attacking those who attacked it as officious meddlers in a social-economic arrangement which was none of their business and which they did not understand.

As Davis saw it, slavery had always existed. From the beginning of human life men had enslaved other men. In America slavery had originated when early colonists found abundant land and resources crying for development but lacking laborers to perform

the back-bending jobs of chopping, uprooting, plowing, cultivating, and harvesting. In such a labor-hungry society the introduction of forced labor was natural, and men were brought from Africa as well as from England and continental Europe. Slavery, Davis pointed out, existed everywhere in the colonies. Not only Negroes but also Indians and white men had been enslaved at various times. Africans, Davis asserted, were naturally fitted to be slaves.

The history of man traced back to the period which has left none other than pictorial records, exhibits the negro in all times as the subservient race. Nowhere has he shown capacity to found civil government. At no time has he asserted his equality by separating himself from the master race, to establish an independent community of his own. In the Northern states where . . . the greatest efforts have been made by enthusiasts to raise the negro to social equality, he is still subjected to such odious discrimination, as persons fit to be free would not for a day voluntarily endure.²⁶

The lower South, with its broiling sun, humid summers, malarial swamps, needed heavy labor for raising cotton, rice, tobacco, and sugar. And, according to Davis, the African was peculiarly endowed by nature and background with the physical capacity to endure the climate and the hard work. Although slavery had died out in the North, where it was not well adapted to local conditions, it had become permanently fixed in the South.

Religious objections to slavery caused Davis to refer often to the Old Testament as the final word revealing the will of God:

Almighty power and wisdom stamped diversity on the races of men at the period of the creation . . . decreed it after the subsidence of the flood. It is enough for us that the Creator, speaking through the inspired lips of Noah, declared the destiny of the three races of men.

Around and about us is the remarkable fulfilment of the prophecy. . . . The judgment of God are not as those of men. To the former all things are accommodated, and the fate of the subject is thereby his nature. . . .²⁷

Citing chapter and verse, Davis pronounced slavery sanctified in the Bible, authorized, regulated, and recognized from Genesis to Revelation. . . . Slavery existed then in the earliest ages, and among the chosen people of God; and in Revelation we are told that it shall exist till the end of time shall come. You find it in the Old and in the New Testament—in the prophecies, psalms, and the epistles of Paul; you find it recognized—sanctioned everywhere. It is the Bible and the [Supreme] Court on which we rely, and we are not to be answered by *dicta* of earthly wisdom. . . .²⁸

Davis also pointed out the benefits that slavery conferred on the African.

As to the interests of the African, it is his interest to be brought from a barbarian master [in Africa] and turned over to such Christian government as he will find in this country. Cared for in all his physical wants, cultivated to as high an intellectual standard as he can reach, he has attained, in the condition of slavery in the United States, an elevation which that race has nowhere else.²⁹

Slavery, as practiced in the South, permitted the slave to rise above his barbaric background, to develop skills and abilities as a craftsman, to embrace Christianity and its elevating influences, and even to acquire an education. The refining influence of the owner's home and family was another benefit. As Davis viewed it, "There is a relation belonging to this species of property slaves unlike that of the apprentice or the hired man, which awakens whatever there is of kindness or nobility in the heart of him who

owns it. . . ." Davis himself was much concerned over the welfare of his slaves at Brierfield, but he recognized a danger in "collecting this species of property into such masses that the owner is not personally acquainted with the individuals who compose it."³⁰ Again, ". . . it is only when the slaves are assembled in large numbers, on plantations and are removed from the interested, the kind, the affectionate care of the master, that it [slavery] can ever partake of the cruelty which is made the great charge against it by those who know nothing of it, and which . . . probably exists to a smaller extent than in any other relation of capital and labor."³¹

Slavery, according to Davis, benefited the country as well as the individual slave. From the beginning of the government until 1861

under the mild and genial climate of the Southern States and the increasing care and attention for the well-being and comfort of the laboring class, dictated alike by interest and humanity, the African slaves had augmented from about 600,000 . . . to upward of 4,000,000. In moral and social condition they had been elevated from brutal savages into docile, intelligent, and civilized agricultural laborers, and supplied not only with bodily comforts but with careful religious instruction. Under the supervision of a superior race their labor had been so directed as not only to allow a gradual and marked amelioration of their own condition, but to convert hundreds of thousands of square miles of the wilderness into cultivated lands covered with a prosperous people.³²

The South's white population, too, had multiplied seven-fold, "and the production of the South in cotton, rice, sugar and tobacco, for the full development and continuance of labor of the African slaves was indispensable, had swollen to an amount which formed nearly three-fourths of the exports of the whole United States and had become absolutely necessary to the wants of civilized man."³³ The North also benefitted from slavery, too:

Deduct from their trade and manufactures all which is dependent upon the products of slave labor, their prosperity would fade, and poverty would come upon them. . .

Our fathers wisely saw harmony in diversity, and mutuality in the opposite character of the climate, population, and pursuits of the people in the different States. . . . What but fatuity could cause a commercial, manufacturing people to overlook their advantage in such a relation as that which exists between the North and the South?³⁴

Society enjoyed other incidental benefits as a result of slavery. The absence of the term "slavery" in the Constitution, Davis suggested, might have been the result of the framers' considering it a misnomer:

If to restrain the vagrant, the vicious, and the incompetent, the possession of liberty by whom would be dangerous to society and injurious to themselves, be Slavery, then all civil government might be arraigned for having established that condition, and from the work-houses, the penitentiaries, the reform-schools, and the asylums, a cloud of degraded and unfortunate witnesses could be brought to sustain the arraignment. But if it be said these were incarcerated after being adjudged to be lunatics, or for crimes whereof they had been duly convicted, may we not ask if it be philanthropy to expose a race, known to be unfit to take care of themselves, to trials beneath which they must generally sink, . . . and end their days in the prison or the mad-house. In each case the good of society is the object, and the justification is to be found in the adaptation of the means to the end. The difference of rule results from the different capacities of the races. . . .³⁵

As early as 1850 Davis observed that visitors in the South "see that slaves in their present condition . . . are more comfortable and

happy . . . advancing in intelligence; . . . the kindest relations exist between them and their masters; they see them provided for in age and in sickness, in infancy and disability; . . . in useful employment, restrained from the vicious indulgences to which their inferior natures incline them; they see our penitentiaries never filled, and our poorhouses usually empty." But in the North ". . . instead of the kindness they receive at the South, instead of being happy and useful," the Negroes "are with few exceptions, miserable, degraded, filling the penitentiaries and poorhouses, objects of scorn, excluded in some places from the schools, and deprived of many other privileges and benefits. . ." ³⁶

But social, economic, religious considerations aside, Davis rested his case for slavery principally on the ground that ownership of slaves was a property right long recognized in law and sanctioned by the Constitution, the supreme law of the land. "Slavery existed long before the formation of this Union" and ". . . derived from the Constitution that recognition it would not have enjoyed without the confederation. If the States had not united together, there would have been no obligation on adjoining States to regard any species of property unknown to themselves. But it was one of the compromises of the Constitution that the slave property in the Southern States should be recognized as property throughout the United States." ³⁷

Because slavery was sanctioned by the Constitution as a domestic institution *within a state*, it could be permitted, regulated, or abolished only by action of the state itself. No outside government, state or federal, had any power to interfere with it in any way. The federal government was specifically prohibited by the Fifth Amendment from depriving a person of property without due process of law. And since slaves were property, the federal government was thereby constitutionally barred from interfering with slavery in any state. This point, insisted upon by Davis, was generally conceded by reasonable men like Lincoln. But radical abolitionists rejected this view and urged Congress to abolish slavery by constitutional amendment if necessary.

Because Davis entered the Senate after his Mexican War service, he was opposed to the Wilmot Proviso; which would have prohibited slavery in the territory purchased from Mexico. Lincoln supported the Wilmot Proviso in the House; Davis fought it in the Senate. By 1847 the issue over slavery's extension into the federal territories was sharply defined—the issue that would divide Americans throughout the 1850's, that would beget the Republican party, rupture the Democratic party, and destroy the Union.

Davis made his position perfectly plain. And his position was built upon the solid foundation of the Constitution. Reiterating that “the slave is property, which its owner may carry with him into any part of the Union,” he asked the Senate in July, 1848, “What power has Congress to interfere with it?” And he himself answered. It had none “to strip the master of his right in his property. Entering a territory with this property, the citizen has a right to its protection. On the acquisition of territory the condition of slavery was not changed. The government acquired no new power over it, but stood merely in the position of an agent for its protection.”³⁸

In February, 1850 he contended: “Our position was from the beginning that the South had a right to go into any territories belonging to the United States with their slave property.”³⁹ Again in 1850, asserting that “this government is the agent of all the States,” Davis described slavery “as a property recognized in the Constitution, and held in a portion of the States.” He argued therefore that “the Federal Government is bound to admit it into all the Territories, and to give it such protection as other private property receives.” Since Congress had no power to prohibit slavery in the territories, the conclusion was inescapable that “a slaveholder has a right to go with his slave into any portion of these United States, except in a state where the fundamental law has forbidden it.”⁴⁰

Davis energetically resisted Clay's compromise of 1850 in a series of speeches made in the Senate between January and September. Since Davis subscribed to the state sovereignty doctrine, he had

little choice when the people of California applied for admission to the Union as a state but to object to their decision to exclude slavery. The issue was critical, and Davis made as strong a case against California's admission as the circumstances permitted. Although the South was heavily outvoted in the House, there had been a balance of power in the Senate between free and slaveholding states. But admitting California as a free state would tip the Senate scales to the side of the free states. The South would then be relegated to what Southern leaders clearly saw as a permanent minority position. The South would be outnumbered and outvoted in both houses on the sectional issues and her particular interests would be jeopardized. Davis therefore battled doggedly to block California's admission. The entire proceedings in California were, he maintained, entirely irregular: calling and choosing a convention, drafting a constitution, erecting boundaries, and applying for statehood. The argument had some force because in the wake of the 1849 gold rush thousands of migrants, many of them aliens, had arrived. And there was doubt whether a majority of those who framed and voted to accept the California constitution had been American citizens. Davis urged enough delay to allow erecting the territory in the regular fashion, with proper enumeration of the population and the usual orderly procedure in advance of granting statehood. He reasserted slaveholders' rights to take their slaves into territories, California included. He would not, he said, insist on this particular right and, in the interest of harmony, he would accept the extension of the Missouri Compromise line to the Pacific with slavery permitted to the south of it. When Congress voted to admit California as a free state, Davis joined nine other Southern Senators in filing a formal protest against this "odious discrimination" against "the right of the slaveholding states to a common and equal enjoyment of the territory of the Union" as intended by the Constitution. Disregard of the Constitution he branded as "fatal to the peace and equality of the States which we represent," and it "must lead, if persisted in, to the dissolution of that Confederacy, in which the slave-

holding states have never sought more than equality, and in which they will not be content to remain with less."⁴¹

Some parts of the Compromise of 1850 Davis approved. He favored the stronger fugitive slave act, which put into effect a specific constitutional provision, but he violently denounced the act abolishing the slave trade in the District of Columbia on two grounds: that Congress had the power to legislate for the District only in the areas designated by the states of Maryland and Virginia which had originally granted the area and that Congress did not have the right to deprive a slave owner of his constitutional right to take his property, i.e., his slave, into the federal District."⁴²

Davis declared that he "expected no great results from" the fugitive slave act. In 1851, when a Boston mob seized a runaway slave from the hand of the authorities, he observed: "I did not . . . anticipate that if a fugitive were arrested and brought legally to trial before the commissioner or judge, a mob could have the power to release him." If this action represents "common sentiment" in Massachusetts, then it follows that the law is dead, as to that particular State." While the law should have been observed, Davis conceded that when Massachusetts or

any State in this Union shall choose to set aside the laws, it is within her sovereignty, and beyond our power. . . . it would be a total subversion of the principles of our Government if the strong arm of the United States is to be brought to crush the known will of any State in this Union. Such is my theory of this Government. If the people of Massachusetts choose to nullify the law, . . . to obliterate the Constitution, . . . to deny the supremacy of the laws of the United States, they will have but one more step to take . . . ; that is to declare the authority of the United States abrogated, and the bonds of the Union to be no longer over them. We of the South have been constantly arraigned as those who oppose the government

of the United States, who nullify its laws, and who manifest a violent resistance against their execution. The charge is as untrue as it is common.⁴³

Davis believed that no physical force could be used to hold the Union together. Here he disagreed with those political leaders who maintained that the compromise measures of 1850 prevented a dissolution of the Union. Of those politicians he said:

When I become convinced that this Union depends for its preservation on the measures which politicians may suggest, . . . I shall look upon its days as numbered. The charm which invests and binds it with far greater force than bands of brass and steel, must have been dissolved, and the efforts of any puny arm to forge fetters to replace the magic power that has passed away, would only provoke contempt. . . . This Union is held together by historical associations and national pride. . . , by mutual attachments and common interests. . . , by social links, from the fact that fathers and sons, mothers and daughters, brothers and sisters, and boyhood friends live in extreme ends of the Union. . . , by so many unseen, close, and daily increasing points of contact, that it can only be rent in twain by something which loosens these rivets, and permits the use of a lever as powerful as that which has been recently introduced. When it depends upon politicians to manufacture bonds to hold the Union together it is gone—worthless as a rope of sand.⁴⁴

During the 1850 crisis many Southerners had talked secession, especially at the Nashville convention, where extremists expressed their conviction that withdrawal from a Union that no longer insured their rights was the only protection for the Southern minority against a hostile, aggressive Northern majority. Davis

considered the idea but opposed his own state's separate action even though he spoke in terms of individual state rights. He favored instead the cooperative withdrawal of the slaveholding states if such a step became necessary; he hoped the final step need never be taken. So he began working toward making the South strong enough to protect its own rights. He believed that the United States should add new slaveholding states—by annexation if necessary—to redress the political balance between the sections in the Senate, that Southerners should bolster their commercial position at home, and that they should expand the market abroad for their agricultural products.

After he resigned from the Senate and was defeated in 1851 in his race for the governorship of Mississippi, Davis faced a dim political future. But when his friend Franklin Pierce was elected President, Davis returned to Washington in 1853 to become Secretary of War. Between 1853 and 1857 Secretary Davis worked for the acquisition of Cuba to strengthen the South's political position and for a railroad from Memphis to the Pacific coast to increase the South's economic strength. The railroad proposal met with opposition from Senator Stephen A. Douglas, spokesman for the Northwest Democrats, who favored one originating in Chicago. Douglas sought and, curiously enough, got Davis' aid in winning President Pierce's support for his Kansas-Nebraska bill of 1854. Paradoxically, Davis now acquiesced to a doctrine that he had consistently refuted in the 1850 debates, that of popular sovereignty on the question of slavery in the territories. Perhaps the interests of party harmony, the desire for Northern support for his policies, and the possibility of Kansas' becoming a slaveholding state were responsible.

Davis was probably as much surprised as Douglas was by the sudden Northern revulsion to the Kansas-Nebraska Act. Both men were forced to suspend plans for a federally sponsored Pacific railroad in the furore over the repeal of the Missouri Compromise. Both helplessly watched Kansas erupt with violence as adherents flocked into the ranks of the new Republican party and Congress

debated bitterly over the admission of Kansas. Davis still hoped to combine the Northwest and the South and to win sufficient strength in Massachusetts and New York for the Democratic party to hold control of the government in Washington. But he could not swing the Northwest without the support of Douglas, to whom northwestern Democrats were passionately attached and to whom popular sovereignty represented a true expression of democratic self-government.

At the end of his term as Secretary of War in 1857, Davis returned to the Senate, where he served continuously until Mississippi seceded in January, 1861. In the struggle in 1857-58 over Kansas, Davis persistently contended for its admission as a slave state. And because he fully expected Kansas to become a slave state, he was willing to accept the non-intervention doctrine stipulated in the Kansas-Nebraska Act. In Congress and out, he re-stated his position. On a vacation trip in September, 1858 he addressed a rally in Portland, Maine:

The territory being the common property of the States, equals in the Union, and bound by the constitution which recognizes property in slaves, it is an abuse of words to call aggression the migration into that territory, one of the joint owners, because carrying with him any species of property recognized by the Constitution of the United States. The Federal government has no power to declare what is property anywhere. The power of each State cannot extend beyond its own limits. As a consequence, therefore, whatever is property in any of the States must be so considered in any of the territories of the United States until they reach the dignity of community independence [i.e., statehood], when the subject matter will be entirely under the control of the people and be determined by their fundamental law.⁴⁵

Then, echoing Douglas's Freeport doctrine, Davis continued:

If the inhabitants of any territory should refuse to enact such laws and police regulations as would give security to their property or to his, it would be rendered more or less valueless. . . . In the case of property in the labor of man, or what is usually called slave property, the insecurity would be so great that the owner could not ordinarily retain it. Therefore, though the right would remain, the remedy being withheld, it would follow that the owner would be practically debarred . . . from taking slave property into a territory where the sense of the inhabitants was opposed to its introduction.⁴⁶

Davis obviously considered Lincoln's views on slavery in the territories untenable. In his opinion they deprived the citizen of his right to migrate with slave property into any of the federal territories. He flatly rejected Lincoln's appeal that Congress bar slavery from the territories because he believed that the territories were the common property of all the states and that Congress, as common agent for the states, could not prevent Southerners from taking their personal property, slaves, into a territory of which the slave-holder's state of origin was a co-owner. He considered Douglas's program for organizing territorial citizens to bar slaves little better than Lincoln's proposition, for without power itself to bar slaves Congress could not so empower its agent, the territorial government.

These views of Davis's had been vindicated by the highest tribunal as the "supreme law of the land" in the Supreme Court's Dred Scott decision. How, then, could men argue the question further? In Davis's eyes the South asked nothing more than her rights as set forth in the Constitution and as judicially determined by the Supreme Court. Lincoln of course considered the Court's Dred Scott ruling erroneous and thought it should be changed. This attitude was, to Davis, proof of the North's determination to tighten an encircling noose around the South, which would block her natural expansion, hold her in political sub-

servience, check the extension of slavery as a prelude to attacking slavery itself, and tear to shreds the fabric of Southern society. To halt this strangulation of the South Davis went so far as to advocate federal protection:

If it be the obligation of the United States to protect its citizens in their constitutional rights, and it be shown that those constitutional rights are violated by the inhabitants of a Territory, or anybody else, it is the duty of Congress to interpose, with whatever power it possess, to make that protection adequate.⁴⁷

Northern fanaticism, in Davis's opinion, knew no bounds. John Brown's raid at Harper's Ferry in October, 1859 was further evidence that the North intended the destruction of Southern society by any means—even by violence.

Since Davis viewed slavery not as an evil but as a positive benefit, he saw no reason even to talk about "solutions" to the "problem." In early speeches he made vague references to the eventual end of slavery, and suggesting that it offered the African a step between savagery and civilization and that ultimately slaves might attain freedom. But the chief stumbling block as seen by both Davis and Lincoln was the question of what to do with the Negroes after they were freed. Colonization of ex-slaves in Africa had proven a failure. Liberia did not raise sufficient food for its own needs and the Liberians themselves had subjected other Africans to a stern apprenticeship resembling slavery. It was no "kindness" to ship Negroes from "the benefit of our civilization" to the privations of Africa.⁴⁸

Davis argued occasionally that slavery should be allowed to spread so that slaves would be diffused over a broader area. With the proportion of slaves as high as fifty percent or more of the population in parts of the lower South, all thought of emancipation was impossible. Only when diffusion reduced the proportion of slaves to a moderate part of the total population could emancipation be a practical possibility. Whether he made

this point simply to push the extension of slavery or whether he believed it is of course impossible to determine.

UNION OR SECESSION: Lincoln

Both Lincoln and Davis protested their love of the Union. Both agreed that the United States was a valuable, beneficial political combination. Both wanted the Union maintained—but under different sets of conditions. Lincoln declared that it could best be preserved by holding slavery within its present limits. Its spread would endanger the Union by threatening freedom, the very quality which had inspired the creation of the Union.

Abraham Lincoln was elected President in November, 1860. By March, 1861, when he took office, seven Southern states had seceded. In the interim President Buchanan had declared that though a state had no right to secede, the federal government had no power to prevent secession. Congressional committees had wrangled long over compromise measures designed to satisfy the South and forestall secession. When Republicans in Congress asked President-elect Lincoln what stand he would take, he replied, "Let there be no compromise on the question of extending slavery." Here he would not budge: "Entertain no proposition for a compromise in regard to the *extension* of slavery," he wrote William Kellogg; "The instant you do, they have us under again; all our labor is lost, and sooner or later must be done over. Douglas is sure to bring in his 'Popular Sovereignty.' Have none of it. The tug has to come and better now than later."⁴⁹ Let the fugitive slave law be enforced. Let the South be reassured that slavery would not be affected where it already existed. He asked ex-Congressman Alexander H. Stephens of Georgia:

Do the people of the South really entertain fears that a Republican administration would *directly*, or *indirectly*, interfere with their slaves, or with them, about their

slaves? If they do, I wish to assure you, as once a friend, and still, I hope, not any enemy, that there is no cause for such fears.

The South would be in no more danger in this respect than it was in the days of Washington. I suppose, however, that this does not meet the case. You think slavery is *right* and ought to be extended; while we think it is *wrong* and ought to be restricted. That I suppose is the rub. It is certainly the only substantial difference between us.⁵⁰

This was clearly a *substantial* difference.

The seven states which seceded in December, 1860 and January, 1861, established a provisional government at Montgomery in early February, a month before Buchanan passed on the weighty presidential burdens to Lincoln. In his first inaugural address on March 4th, Lincoln told Southerners in reassuring tones: "I have no purpose, directly or indirectly, to interfere with the institution of slavery where it exists. . . . I have no lawful right to do so, and I have no inclination to do so." He had no objection, he said, to amending the Constitution to this effect, or to making the amendment irrevocable. The rights of the states would be maintained "inviolable," the fugitive slave law would be enforced. But there would be no question on the maintainance of the Union:

I hold . . . the Union of these states is perpetual. Perpetuity is implied, if not expressed, in the fundamental law of all national governments. . . . Continue to execute all the express provisions of our national Constitution, and the Union will endure forever—it being impossible to destroy it, except by some action not provided for in the instrument itself.

Again, if the United States be not a government proper, but an association of states in the nature of contract merely, can it, as a contract, be peaceably unmade, by less than all the parties who made it? One party to a contract

may violate it—break it so to speak; but does it not require all to lawfully rescind it?

Descending from these general principles, we find the proposition that, in legal contemplation, the Union is perpetual, confirmed by the history of the Union itself. The Union is much older than the Constitution. It was formed in fact, by the Articles of Association in 1774. It was further matured and the faith of all the then thirteen states expressly plighted and engaged that it should be perpetual, by the Articles of Confederation in 1778. And finally, in 1787, one of the declared objects for ordaining and establishing the Constitution, was “*to form a more perfect union.*”⁵¹

Disruption would make the Union “less perfect.” “It follows from these views that no state, upon its mere motion, can lawfully get out of the Union—that *resolves* and *ordinances* to that effect are legally void.” Secession was therefore not only unconstitutional but “insurrectionary and revolutionary.”

The Southern rationalization of secession Lincoln branded “an ingenious sophism” and the process of withdrawal by adopting resolutions was a “farcical pretense.” The whole state rights doctrine Lincoln rejected as resting upon a false assumption

. . . that there is some omnipotent, and sacred supremacy, pertaining to a *state*—to each state of our Federal Union. Our states have neither more, nor less power, than that reserved to them, in the Union, by the Constitution—no one of them ever having been a state *out* of the Union. The original ones passed into the Union even *before* they cast off their British colonial dependence; and the new ones came into the Union directly from a condition of dependence excepting Texas. . . . The new ones only took the designation of the states, on coming into the Union, while that name was first adopted for the old ones, in, and by, the Declaration of Independence. There-

in the "United Colonies" were declared to be "Free and Independent States"; but even then, the object plainly was not to declare their independence of *one another*, or of the *Union*; but directly the contrary, as their mutual pledge, and their mutual action, before, at the time, and afterwards, abundantly show. The express plighting of faith, by each and all of the original thirteen, in the Articles of Confederation, two years later, that the Union shall be perpetual, is most conclusive. Having never been states, either in substance, or in name, *outside* of the Union, whence this magical omnipotence of "state rights," asserting a claim of power to lawfully destroy the Union itself? Much is said about the "sovereignty" of the states; but the word, even, is not in the national Constitution; nor, as is believed, in any of the state constitutions. What is a "sovereignty," in the political sense of the term? Would it be far wrong to define it "A political community, without a political superior"? Tested by this, no one of our states, except Texas, ever was a sovereignty. And even Texas gave up the character on coming into the Union; by which act, she acknowledged the Constitution of the United States, and the laws and treaties of the United States made in pursuance of the Constitution, to be for her, the supreme law of the land. The states have their *status* in the Union, and they have no other *legal status*. If they break from this, they can only do so against law, and by revolution. The Union, and not themselves separately, procured their independence, and their liberty. By conquest, or purchase, the Union gave each of them, whatever of independence, and liberty, it has. The Union is older than any of the states; and, in fact, it created them as states. Originally, some dependent colonies made the Union; and, in turn, the Union threw off their old dependence for them and made them states, such as they are. Not one of them ever had a state constitu-

tion, independent of the Union. Of course, it is not forgotten that all the new states framed their constitutions, before they entered the Union; nevertheless, dependent upon, and preparatory to, coming into the Union.

Unquestionably the states have the powers, and rights, reserved to them in, and by the national Constitution; but among these, surely are not included all conceivable powers, however mischievous, or destructive; but, at most, such only, as were known in the world, at the time, as governmental powers; and certainly, a power to destroy the government itself, had never been known as a governmental—as merely administrative power. This relative matter of national power, and state rights, as a principle, is no other than the principle of *generality*, and *locality*. Whatever concerns the whole, should be confided to the whole—to the general government; while, whatever concerns *only* the state, should be left exclusively, to the state. This is all there is of original principle about it. Whether the national Constitution, is defining boundaries between the two, has applied the principle with exact accuracy, is not to be questioned. We are all bound by that defining, without question.⁵²

Practical considerations made secession entirely impractical:

If, by the mere force of numbers, a majority should deprive a minority of any clearly written constitutional right, it might, in a moral point of view, justify revolution—certainly would, if such right were a vital one. But such is not our case. All the vital rights of minorities, and of individuals, are so plainly assured to them, by affirmations and negations, guaranties and prohibitions, in the Constitution, that controversies never arise concerning them. But no organic law can ever be framed with a provision specifically applicable to every question which may occur

in practical administration. No foresight can anticipate, nor any document of reasonable length contain express provisions for all possible questions. Shall fugitives from labor be surrendered by national or by state authority? The Constitution does not expressly say. *May* Congress prohibit slavery in the territories? The Constitution does not expressly say. *Must* Congress protect slavery in the territories? The Constitution does not expressly say.

From questions of this class spring all our constitutional controversies, and we divide upon them into majorities and minorities. If the minority will not acquiesce, the majority must, or the government must cease. There is no other alternative; for continuing the government, is acquiescence on one side or the other. If a minority, in such case, will secede rather than acquiesce, they make a precedent which in turn, will divide and ruin them; for a minority of their own will secede from them, whenever a majority refuses to be controlled by such minority. For instance, why may not any portion of a new confederacy, a year or two hence, arbitrarily secede again, precisely as portions of the present Union now claim to secede from it. . . .

Plainly, the central idea of secession, is the essence of anarchy. A majority, held in restraint by constitutional checks, and limitations and always changing easily, with deliberate changes of popular opinions and sentiments, is the only true sovereign of a free people. Whoever rejects it, does of necessity, fly to anarchy or to despotism. Unanimity is impossible; the rule of a minority, as a permanent arrangement, is wholly inadmissible; so that, rejecting the majority principle, anarchy, or despotism in some form, is all that is left.⁵³

He also said:

physically speaking, we cannot separate. We cannot re-

move our respective sections from each other, nor build an impassable wall between them. A husband and wife may be divorced, and go out of the presence and beyond the reach of each other; but the different parts of our country cannot do this. They cannot but remain face to face; and intercourse, either amicable or hostile, must continue between them. Is it possible to make that intercourse more advantageous or satisfactory, *after* separation than *before*? Can aliens make treaties, easier than friends can make laws? . . . Suppose you go to war, you cannot fight always; and when, after much loss on both sides, and no gain on either, you cease fighting, the identical old questions as to terms of intercourse are again upon you.⁵⁴

As to his intentions in dealing with the situation, Lincoln's seemingly contradictory statements could be interpreted in different ways. He told Southerners: "The government will not assail you. You can have no conflict, without being yourselves the aggressors." At the same time he announced: "The power confided to me, will be used to hold, occupy, and possess the property, and places belonging to the government, and to collect the duties and imports" and "I shall take care, as the Constitution itself expressly enjoins upon me, that the laws of the Union be faithfully executed in all the states."⁵⁵ To impartial observers these statements might have been moderate enough, but to strong partisans they might imply a threat of force against those who resisted.

UNION OR SECESSION: Davis

After the 1850 crisis Davis decided that secession was not the proper course for the South. Instead he thought it possible for the South, by expansion and skillful "horse-trading" to increase its political strength to the point of molding national

policy. The Union should be preserved. And within the Union, the South could insure its rights and could best serve its interests with renewed political strength. He saw the Democratic party as the best vehicle. After 1854, Davis was convinced that only the Democratic party could save the Union from destruction. Both Pierce and Buchanan relied heavily on Southern leaders for advice and for support in determining and effecting policy. Davis was virtually Pierce's prime minister; and he was frequently consulted by Buchanan.

Unfortunately for Davis's hopes, the South did not control the majority of votes in the Democratic party. Many former Whigs of the lower South had drifted into the Democratic ranks by the mid-fifties. An alliance with the Northeast or the Northwest or both was needed to keep the Democratic party in power. There was some support from the Northeast where the Jacksonian tradition was still sufficiently strong in Pennsylvania and New York to provide a large Democratic following. And much of the commercial community in New England, with spokesmen like Caleb Cushing, looked favorably toward the South, which provided so much of its trade. But the abolition movement had gained such headway in New England that little support could be expected there.

The Northwest appeared to be the principal rival to the Southern hope for power, for here the Democratic chieftain was energetic, engaging Stephen A. Douglas. Although the "Little Giant" had been burned in effigy in his home territory for being pro-Southern in sponsoring the Kansas-Nebraska Act, he had become by 1858 a hero again at home because he had blocked the admission of Kansas as a slave state. He thereby became anathema to Davis and the Southern Democrats. As Lincoln and Douglas pummeled each other in the 1858 senatorial race, Davis watched disgustedly. He considered Lincoln's "house divided" speech a declaration of war on slavery and Douglas's Freeport doctrine treason against the Democratic party. Later he told a Mississippi audience that he only "wished the two debaters might, like the

Kilkenny cats, have killed each other and thus rid the country of the pest of their discussions.”⁵⁶

As for the causes of hostility between sections of the Union, Davis declared as early as 1850 that abolitionism was merely the spearhead of the drive for Northern domination of the Union:

I contend that it is want of a party that has built up this faction and rendered it dangerous. . . . If it were merely the result of passion, I should then have hopes which I cannot now cherish. If it were the mere outbreak of violence, I should see some prospect of its subsidence.

But considering it as I do, the cold, calculating purpose of those who seek for sectional dominion, I see nothing short of conquest on the one side, or submission on the other. This is the great danger which hangs over us—not passion—not party; but the settled, selfish purpose which alone can sustain and probably will not abandon the movement. . . . It is no longer the clamor of a noisy fanaticism, but the steady advance of a self-sustaining power to the goal of unlimited supremacy. . . . Yes, sir, a moral crevasse has occurred; fanaticism and ignorance—political rivalry—sectional hate—strife for sectional dominion, have accumulated into a mighty flood, and pour their turgid waters through the broken constitution, threatening not total submission, but only the destruction of “the South.”⁵⁷

Evidence of the drive to limit and oppress the South was the surging Republican party’s insistence upon denying the Southerners their constitutional right to take slaves into federal territories. Davis saw a clearly hostile intent among the Republicans to deny Southerners their rights under the Constitution and to render the South a helpless, dependent satellite of the North by destroying her social system. He saw the intent in the abolition of the slave trade in the District of Columbia; in the North’s

outright flouting of the federal fugitive slave law; in the continuous, shrill agitation against the South's own labor system; in blocking Kansas's admission as a slave state; in the Republican refusal to acquiesce in the Dred Scott decision; in Seward's "higher law" doctrine and "irrepressible conflict" declaration; in Lincoln's "house divided" speech; and in John Brown's raid on Harper's Ferry. As Davis saw it, Southerners, in whose veins flowed the proud blood of their Revolutionary fathers (Davis's own father had fought in the Revolution), would be unfit heirs of the tradition of independence if they submitted tamely to such oppressive bondage.

But how could the South defend herself against the onrush of the Northern hostility? In the late 1850's Davis did not completely rule out secession; he viewed it as an extreme, revolutionary course reserved for the last resort. He much preferred to preserve the Union, with Southern interests safeguarded. In Davis's judgment the South's best strategy lay in seeking to elect a President in 1860 like Pierce or Buchanan, sympathetic with the South. This would not be easy, but the effort was worth making. Almost anything seemed preferable to a "Black Republican" President. Davis himself had such ambitions. His best chance lay in a split of the 1860 vote so that no candidate commanded a majority. If this happened the House of Representatives would make the choice; and in a vote by states the South's members could prove decisive. Davis expected Seward to be the Republican nominee. And he expected Douglas, totally unacceptable to the South, to be named by the Northern Democrats. He hoped himself to be the Southern Democrats' candidate. Seward and Douglas, he thought, would divide the Northern vote. If this resulted in a House runoff Davis would have a reasonably good chance of winning. And toward this end he labored.

In 1858 Davis made an extensive tour of New England. Disunion was far from his thoughts. He spoke frequently in conciliatory tones. In Boston, at Faneuil Hall, the cradle of American liberty, he dismissed Northern radicals and Southern extremists

as mere trouble makers who could not undermine the affection and brotherhood of Americans everywhere. Denouncing "this accursed agitation, this offensive, injurious intermeddling with the affairs of other people," he assured his audience that, like the breakers on New England's rocky coast, "the waves of sectional agitation are dashing themselves against the granite patriotism of the land:" that a spirit of harmonious accommodation was growing that would preserve "that great experiment which your fathers left it to you to conclude." and that "the future points us to fraternity, to unity, to cooperation, to the increase of our own happiness, to the extension of our useful example over mankind."⁵⁸

In Portland he condemned the "scavengers" of the Republican party for the "publication of falsehoods" and for "reckless fabrication"; they were attempting, he said, to create ill feeling between the sections and thereby bring on disunion. "Tis for sectional power, and political ascendancy; so far a sectional hostility, which must be . . . injurious to all, and beneficial to none" that Republicans contended. "For what patriotic purpose can the Northern mind be agitated in relation to domestic institutions, for which they have no legal or moral responsibility, and from the interference with which they are restrained by their obligations as American citizens." Davis hoped that the people of Maine would see clearly that "the success of the Democracy [i.e., the Democratic party] was the only hope for the maintainance of the constitution and the perpetuation of the Union which sprang from and cannot live without it."⁵⁹

In a highly emotional speech in New York in 1858, Davis blamed Northern fanatics for inciting sectional hostility and leading the country toward conflict:

From the seeds of narrow sectionality and purblind fanaticism, have sprung the tares which threaten the principles of that declaration which made the colonies independent States, and of that compact by which the States were united by a bond to-day far more valuable than

when it was signed. You have among you politicians of a philosophic turn, who preach a high morality; a system of which they are the discoverers, and it is to be hoped will long remain the exclusive possessors. They say, it is true the Constitution dictates this, the Bible inculcates that; but there is a higher law than those, and call upon you to obey that higher law of which they are the inspired givers. [Laughter and applause.] Men who are *traitors* to the compact of their fathers—men *who have perjured the oaths they have themselves taken*—those who wish to steep their hands in the blood of their brothers; these are the moral law-givers who proclaim a higher law than the Bible, the Constitution, and the laws of the land. This higher-law doctrine, it strikes me, is the most convenient one for the *criminal*. You, no doubt, have a law which punishes a man for stealing a horse or a bale of goods. But the thief would find more convenient a higher law which would justify him in keeping the stolen goods. The doctrine is now advanced to you only in its relation to property of the Southern States, thus it is the pill gilded, to conceal its bitterness; but it will react deeply upon yourselves if you accept it. What security have you for your own safety if every man of vile temper, of low instincts, of base purpose, can find in his own heart a higher law than that which is the rule of society, the Constitution and the Bible.⁶⁰

On the other hand, he declared:

If we are true to ourselves, true to the obligations which the Constitution imposes upon us, and if we are wise and energetic in the struggles which lie before us, our path is onward to more of national greatness than ever people before possessed. We are held together by that two-fold government, which is susceptible of being made perfect

in the small spheres of State limits, and capable of the greatest imperial power, by the combination of these municipal powers into one for foreign action. It is a form of government such as the wit of man never devised until our fathers, with a wisdom that approached inspiration, framed the Constitution, and transmitted it as a legacy to us. It devolves upon every one of you to see that each provision of that Constitution is cordially and faithfully observed. If cordially and faithfully observed, the powers of hell and earth combined can never shake the happiness and prosperity of the people of the United States.⁶¹

Back home in Mississippi, Davis said in an address to the legislature:

Neither in that year [1850] nor in any other, have I ever advocated a dissolution of the Union, or the separation of the State of Mississippi from the Union, except as the last alternative, and have not considered the remedies which lie within that extreme as exhausted, or ever been entirely hopeless of their success. I hold now, as . . . on former occasions, that whilst occupying a seat in the Senate, I am bound to maintain the Government of the Constitution, and in no manner to work for its destruction.⁶²

But agitation by Northern radical reformers made maintenance of the Union difficult.

The master mind of the so-called Republican party, Senator Seward, has in a recent speech in Rochester, announced the purpose of his party to dislodge the Democracy from the possession of the federal Government, and assigns as a reason the friendship of that party for what he denominates the slave system. He declares the Union between the States having slave labor and free

labor to be incompatible, and announces that one or the other must disappear. He even asserts that it was the purpose of the framers of the Government to destroy slave property, and cites as evidence of it, the provision for an amendment of the Constitution. He seeks to alarm his auditors by assuring them of the purpose on the part of the South and the Democratic party to force slavery upon all the States of the Union. Absurd as all this may seem to you, and incredulous as you may be of its acceptance by any intelligent portion of the citizens of the United States, I have reason to believe that it has been inculcated to no small extent in the Northern mind.

It requires but a cursory examination of the Constitution of the United States; but a partial knowledge of its history and of the motives of the men who formed it, to see how utterly fallacious it is to ascribe to them the purpose of interfering with the domestic institutions of any of the States. But if a disrespect for that instrument, a fanatical disregard for its purpose, should ever induce a majority, however large, to seek by amending the Constitution to pervert it from its original object, and to deprive you of the equality which your fathers bequeathed to you, . . .⁶³

Under such circumstances as those, Mississippi's withdrawal from the Union might be justified. But, he maintained:

Now, as in 1851, I hold separation from the Union by the State of Mississippi to be the last remedy—the final alternative. In the language of the venerated Calhoun I consider the disruption of the Union as a great though not the greatest calamity. I would cling tenaciously to our constitutional government, seeing as I do in the fraternal Union of equal States the benefit to all and the fulfillment of that high destiny which our fathers hoped

for and left it to their sons to attain. I love the flag of my country with even more filial affection.⁶⁴

During 1859 Davis worked steadily to preserve the Union, devoting many of his speeches to urging a Pacific railroad which would, he thought, help bind the diverse sections of the Union together. In October John Brown's raid at Harper's Ferry brought a howl of indignation from the Southerners. After Congress met in December, Davis frequently and vehemently denounced Brown's outrageous attack upon peaceful citizens—clearly the consequence, he was sure, of the years of rabid agitation by Northern abolitionists.

Looking forward to the coming Presidential election, Davis wrote Franklin Pierce on January 30, 1860 that Democrats could adjust their differences in the forthcoming Charleston convention by "nominating the man who will be accepted by both sections without a platform." He added, "I will stand by the flag and uphold the Constitution whilst there is a possibility of effecting anything to preserve and perpetuate the Government we inherited . . ." ⁶⁵

As the Democratic convention neared, Davis contrived to trip front-running candidate Stephen A. Douglas by refurbishing, in the Senate, the old Calhoun resolutions of 1837. The most important of the seven resolutions declared:

2. . . . That negro slavery, as it exists in fifteen States of this Union, composes an important portion of their domestic institutions, inherited from their ancestors, and existing at the adoption of the Constitution, and by which it is recognized as constituting an important element in the apportionment of power among the States; and that no change of opinion or feeling on the part of the non-slaveholding States of the Union can justify them or their citizens in open or covert attacks thereon, with a view to its overthrow; and that all such attacks are manifest

violations of the mutual and solemn pledge to protect and defend each other, given by the States, respectively, on entering into the constitutional compact which formed the Union, and are a manifest breach of faith and a violation of the most solemn obligations.

3. . . . That the Union of these States rests on the equality of rights and privileges among its members, and that it is especially the duty of the Senate, which represents the States in their sovereign capacity, to resist all attempts to discriminate either in relation to persons or property in the Territories, which are the common possession of the United States, so as to give advantages to the citizens of one State which are not equally assured to those of every other State.

4. . . . That neither Congress nor a territorial legislature, whether by direct legislation or legislation of an indirect and unfriendly character, possess power to annul or impair the constitutional right of any citizen of the United States to take his slave property into the common Territories, and there hold and enjoy the same while the territorial condition remains. . . .

6. . . . That the inhabitants of a Territory of the United States when they rightfully form a constitution to be admitted as a State into the Union, may then, for the first time, like the people of a State, when forming a new constitution, decide for themselves whether slavery as a domestic institution shall be maintained or prohibited within their jurisdiction; and they shall be received into the Union with or without slavery as their constitution may prescribe at the time of their admission.⁶⁶

In denying Douglas's doctrine of sovereignty in the federal territories, these resolutions flew in the face of pro-Douglas Northern Democrats and were intended thereby to undercut Douglas's candidacy. Debate over the resolutions continued in the weeks

immediately preceding and following the sessions of the Democratic convention at Charleston in May.

When the Northern Democrats at the Charleston Convention voted down Southern demands for federal protection of slave property in the territories, Southern delegates stomped out of the hall. The convention then adjourned to meet at Baltimore the following month. And there Douglas was nominated on a popular sovereignty platform. A movement contemplated by Caleb Cushing of Massachusetts to nominate Davis had no chance to get off the ground. Southern Democrats rejected both Douglas and his platform, met at Richmond and nominated John C. Breckinridge on a federal-protection-of-slavery-in-the-territories platform.

With two Democrats in the field, Davis grew fearful that Lincoln and the Republicans would win. So in September he proposed to Douglas, with whom he had been feuding for many years, that Douglas, Breckinridge, and Bell withdraw to make way for a neutral candidate such as Horatio Seymour of New York. All anti-Republican groups might, by uniting under such a candidate, save the country from falling into the hands of a wholly sectional party. Bell and Breckinridge agreed to withdraw if Douglas would. But Douglas of course refused, pointing out that, if he did, northern followers would support Lincoln.

Back on his Brierfield plantation, Davis despondently followed the progress of the campaign. In early October he commented:

A sectional party, the vital element of which is hostility to a domestic institution existing among us, seeks and confidently expects to obtain possession of the federal government. Stimulated by the hope of success, their former reserve has to a great extent been thrown off, and they now proclaim an irrepressible conflict between the sections, because of negro slavery in the South. Confronted by a common foe, the South should by the instinct of self-preservation, be united. Difference on minor questions

might, it would seem, be forgotten in the face of an issue so momentous as is now presented. To rally the men of the North, who would preserve the government as our fathers found[ed] it—we for whose rights under the Constitution and the laws they are contending—should offer no doubtful or divided front. Our equality as members of the Union, and our claim to protection by the general government in all our Constitutional rights to the full limit of its jurisdiction and power being the questions distinctly presented in the canvass, the rule of conduct which would lead us to support the candidate who best represents our opinion on those salient points, is one on which we might be expected to unite. . . .

Had the doctrine of State Rights, as promulgated by our party, and advocated by our candidate, been the accepted creed of the whole country, no sectional strife could have arisen because of the difference in the domestic institutions of the States. No obstacle could have been presented to the fulfillment of the great purpose of the Union, the concentration of the power of all for the security and safety of each against danger whether foreign or domestic. A return to the original spirit and purpose of the Government is the necessity of the time; and it needs no argument to show that this is most clearly indicated by the most unequivocal antagonism to the party which seeks to seize upon the government as a means to make war upon the domestic tranquillity, welfare, and sovereignty of the slaveholding States of the Union. The recent declaration of the candidate and leaders of the Black Republican party are familiar to you and need not be recited; they must suffice to convince many who have formerly doubted the purpose to attack the institution of slavery in the States. The undying opposition to slavery in the United States means woe upon it where it is, not where it is not; and the time is at hand when the great

battle is to be fought between the defenders of the constitutional government and the votaries of mob rule, fanaticism, and anarchy.⁶⁷

Upon learning of Lincoln's election, Davis sent the following summary of his views to the *Charleston Mercury* on November 10, 1860:

1. I doubt not that the governor of Mississippi has convoked the legislature to decide upon the course which the State should adopt in the present emergency. Whether the legislature will direct the call of a convention of the State, or appoint delegates to a convention of such Southern States as may be willing to consult together for the adoption of a Southern plan of action, is doubtful.

2. If a convention of State were assembled, the proposition to secede from the Union, independently of support from neighboring States, would probably fail.

3. If South Carolina should first secede, and she alone should take such action, the position of Mississippi would not probably be changed by that fact. A powerful obstacle to the separate action of Mississippi is the want of a port; from which follows the consequence that her trade, being still conducted through the ports of the Union, her revenue would be diverted from her own support to that of a foreign government; and being geographically unconnected with South Carolina, an alliance with her would not vary that state of the case.

4. The propriety of separate secession by South Carolina depends so much upon collateral questions that I find it difficult to respond to your last inquiry, for the want of knowledge which would enable me to estimate the value of the elements involved in the issue, though exterior to your State. Georgia is necessary to connect you with Alabama, and thus make effectual the cooperation of Missis-

sippi. If Georgia would be lost by immediate action, but could be gained by delay, it seems clear to me that you should wait. If the secession of South Carolina should be followed by an attempt to coerce her back into the Union, that act of usurpation, folly, and wickedness would enlist every true Southerner for her defense. . . .

The planting States have a common interest of such magnitude, that their union, sooner or later, for the protection of that interest, is certain. United they will have ample power for their own protection, and their exports will make for them allies of all commercial and manufacturing powers.

The newer States have a heterogeneous population, and will be slower and less unanimous than those in which there is less of the Northern element. . . , but interest controls the policy of States, and finally all the planting communities must reach the same conclusion. *My opinion is, therefore, as it has been, in favor of seeking to bring those States into cooperation before asking for a popular decision upon a new policy and relation to the nations of the earth.* If South Carolina should resolve to secede before that cooperation can be obtained, to go out leaving Georgia, and Alabama, and Louisiana, in the Union, and without any reason to suppose they will follow her, there appears to me to be no real advantage in waiting until the government has passed into hostile hands, and men have become familiarized to that injurious and offensive perversion of the general government from the ends for which it was established.⁶⁸

The Republican victory Davis viewed as a serious threat to the South, declaring on December 10:

. . . the true cause of our danger, which, from my examination I believe to be that a sectional hostility has

been substituted for a general fraternity, and thus the Government rendered powerless for the ends for which it was instituted. The hearts of a portion of the people have been perverted by that hostility, so that the powers delegated by the compact of the union are regarded not as means to secure the welfare of all, but as instruments for the destruction of a part, the minority section. How, then, have we to provide a remedy? By strengthening this Government? By instituting physical force to overawe the States, to coerce the people living under them as members of sovereign communities to pass under the yoke of the Federal Government? No, sir; I would have this Union severed into thirty-three fragments sooner than have that great evil befall constitutional liberty and representative government. Our Government is an agency of delegated and strictly limited powers. Its founders did not look to its preservation by force; but the chain they wove to bind these States together was one of love and mutual good offices.⁶⁹

But "where is the remedy" Davis asked, only to answer:

. . . In the hearts of the people. . . ; and therefore it is that I turn to the other side of the Chamber [Senate], to the majority section, to the section in which have been committed the acts that now threaten the dissolution of the Union. I call on you, the representatives of that section, here and now to say so, if your people are not hostile; if they have the fraternity with which their fathers came to form this Union; if they are prepared to do justice; to abandon their opposition to the Constitution and laws of the United States; to recognize and to maintain and to defend all the rights and benefits the Union was designed to promote and to secure. Give us that declaration, give us that evidence of the will of your constituency to restore

us to our original position, when mutual kindness was the animating motive, and then we may hopefully look for remedies which may suffice; not by organizing armies, not so much by enacting laws, as by repressing the spirit of hostility and lawlessness, and seeking to live up to the obligations of good neighbors, and friendly States united for the common welfare.

To dwell upon anti-fugitive slave laws is to deal with the symptom only valuable as it indicates the disease which demands attention. What though all the "personal liberty bills" were repealed; would that secure our rights? Would that give us the Union our fathers made? Would that renew good offices, or restrain raids and incendiarism, or prevent schools being founded to prepare missionaries to go into lands where they are to sow the seeds of insurrection, and wearing the livery of heaven, to serve the Devil by poisoning wells and burning towns? These are offenses such as no people can bear; and the remedy for these is in the patriotism and the affection of the people, if it exists; and if it does not exist, it is far better, instead of attempting to preserve a forced and therefore fruitless Union, that we should peacefully part and each pursue his separate course. It is not to this side of the Chamber that we should look for propositions; it is not here that we can ask for remedies. . . . If we are mistaken as to your feelings and purposes, give a substantial proof, that here may begin that circle which hence may spread out and cover the whole land with proofs of fraternity, of a reaction in public sentiment, and the assurance of a future career in conformity with the principles and purposes of the Constitution. All else is idle. I would not give the parchment on which the bill would be written which is to secure our constitutional rights within the limits of a State where the people are all opposed to the execution of that law. It is a truism in free Government that laws

rest upon public opinion, and fall powerless before its determined opposition.⁷⁰

But only an about-face, a turning away from sectional animosity to a spirit of good will and fraternity among all Americans could save the Union now.

. . . Our existing Government is not the less sacred to me because it was not sealed with blood. I honor it the more because it was the free-will offering of men who chose to live together. It rooted in fraternity; and fraternity supported its trunk and all its branches. . . . When that is destroyed, the trunk decays and the branches wither and the leaves fall; . . . I cling not merely to the name and form, but to the spirit and purpose of the Union which our fathers made. It was for domestic tranquillity; not to organize within one State lawless bands to commit raids upon another. It was to provide for the common defense; not to disband armies and navies lest they should serve the protection of one section better than another. It was to bring the forces of all the States together to achieve a common object, upholding each the other in amity, and united to repel exterior force. . . .

The theory of our Constitution . . . is one of peace, of equality of sovereign States. It was made by States and made for States; and in the abundance of caution that passed an amendment, doing that which was necessarily implied by the nature of the instrument, as it was a mere instrument of grants. But, in the abundance of caution, they declared that everything which had not been delegated was reserved to the States, or to the people—that is, to the State governments instituted by the people of each State, or to the people in their sovereign capacity.

I need not, then, go on to argue from the history and nature of our Government that no power of coercion

exists in it. It is enough for me to demand the clause of the Constitution which confers the power. If it is not there, the Government does not possess it. That is the plain construction of the Constitution, made plainer, if possible, by its amendment.

This Union is dear to me as a Union of fraternal States. It would lose its value if I had to regard it as a Union held together by physical force. I would be happy to know that every State now felt that fraternity which made this Union possible. . . . If there be any good, then, which we can do, it is by sending evidence to them of that which I fear does not exist—the purpose of your constituents to fulfill in the spirit of justice and fraternity all their constitutional obligations. If you can submit to them that evidence, I feel confident that, with the evidence that aggression is henceforth to cease, will terminate all the measures for defense. Upon you of the majority section it depends to restore peace and perpetuate the Union of equal States; upon us of the minority section rests the duty to maintain our equality and community rights; and the means in one case or the other must be such as each can control.⁷¹

In December, 1860 Davis hoped that the Union could be rescued. He began to rely heavily upon his old friend William H. Seward, whom he expected to be the controlling influence in the incoming Lincoln administration. With Seward, who had grown surprisingly moderate in views and expressions of opinion with the rapid approach of the Republican assumption of responsibility, Davis talked frequently, and he served with him on the Senate's Committee of Thirteen which sought a way to forestall the threatening secession of Southern states. At the end of the year the Committee submitted the Crittenden compromise that proposed to revive and extend the 36°30' line on slavery in the territories west to California, to prohibit any external interference

with slavery in a state, and to give Southerners renewed assurance on recovery of runaways and on similar matters. The Committee, which consisted of two lower South Democrats, three upper ex-Whigs from the South, three Northern Democrats, and five Republicans, adopted, on Davis's motion, a formula resembling Calhoun's old concurrent majority scheme. The Committee, upon Davis's insistence, would submit no proposal to the Senate which was not supported by a majority of both the Democratic and Republican members. On word from Lincoln at Springfield, Republican committeemen rejected the compromise proposals. Even so, Davis announced that he was still ready to support the Crittenden plan if the Republicans gave genuine assent to it.

By early January, 1861 Davis became convinced that the other cotton states must inevitably secede. He presided over a caucus of Southern Senators, who recommended secession as a consequence of the breakdown of compromise efforts and of Buchanan's decision to send the *Star of the West* naval relief expedition to Fort Sumter in Charleston harbor, which Southerners denounced as aggression against a sovereign state.

On January 9, Mississippi, acting through a specially elected convention, adopted a secession ordinance and became the second state to withdraw from the Union. On the same day Davis began a two-day harangue in the Senate which summarized the Southern position, castigated the Buchanan administration as an aggressor against South Carolina, and blasted the Republicans for rejecting compromise and destroying the one last chance to save the Union. Only a faint ray of hope remained. "Looking upon this separation as inevitable," he asked:

How can this separation be effected so as to leave us the power, whenever we shall have the will, to reconstruct? It can only be done by adopting a policy of peace. It can only be done by denying to the Federal Government all power to coerce. It can only be done by returning to the point from which we started, and saying, "This is a Gov-

ernment of fraternity, a Government of consent; and it shall not be administered in a departure from these principles."

I do not regard the failure of our constitutional Union, as very many do, to be the failure of self-government; to be conclusive in all future time of the unfitness of man to govern himself. Our State governments have charge of nearly all the relations of persons and property. This Federal Government was instituted mainly as a common agent for foreign purposes, for free trade among the States, and for common defense. Representative liberty will remain in the States after they are separated.⁷²

As he did on many occasions, he now harked back to the American Revolution:

There is a strange similarity in the position of affairs at the present day to that which the colonists occupied. Lord North asserted the right to collect the revenue, and insisted on collecting it by force. He sent troops to Boston harbor, and to Charleston, and he quartered troops in these towns. The result was, collision, and out of that collision came the separation of the colonies from the mother country. The same thing is being attempted today. . . . To gather taxes in southern ports, the Army and Navy must be sent to perform the functions of magistrates. It is the old case over again. . . .

I have heard, with some surprise, for it seemed to me idle, the repetition of the assertion . . . that the cause of separation was the election of Mr. Lincoln. It may be a source of gratification to some gentlemen that their friend is elected; but no individual had the power to produce the existing state of things. It was the purpose, the end; it was the declaration by himself and his friends, which constitute the necessity of providing new safeguards for our-

selves. The man was nothing, save as he was the representative of opinions, of a policy, of purposes, of power, to inflict upon us those wrongs to which freemen never tamely submit.⁷³

It is curious that Davis and Lincoln should both appeal to the Declaration of Independence and to the same spiritual godfather, Thomas Jefferson. Davis cited the fundamental, natural right of revolution against an oppressive government; Lincoln focused upon the insurance of equal rights in a government based upon rule of the popular majority.

In the ten days after Mississippi seceded, Davis wound up his affairs in Washington. He wrote sadly to Franklin Pierce that "Civil War has only horror for me" and he explained that "Mississippi, not as a matter of choice, but of necessity" was driven to secession by the threat to deny her right to government upon the consent of the governed, "to substitute foreign force for domestic support, to reduce a state to the condition from which the colony rose."⁷⁴

On January 21 Davis delivered his formal farewell to the Senate. For weeks he had been ill in body and in spirit. He suffered from recurring neuralgia, and the sight of one eye was seriously dimmed. He had worried much, slept little. And that day his normally sharp features seemed even more tightly drawn than usual under the pressure of nerve-tearing tension. His voice, subdued and faltering at first, gained strength and resonance as he spoke:

I rise, Mr. President, for the purpose of announcing that . . . the State of Mississippi . . . has declared her separation from the United States. Under these circumstances, of course, my functions are terminated here. . . .

[Senators know] . . . that I have for many years advocated, as an essential attribute of State sovereignty, the right of a State to secede from the Union. Therefore, if

I had not believed there was justifiable cause; if I had thought that Mississippi^a was acting without sufficient provocation, or without an existing necessity, I should still under my theory of the Government, because of my allegiance to the State of which I am a citizen, have been bound by her action. I however, may be permitted to say that I do think she has justifiable cause, and I approve of her act. I conferred with her people before that act was taken, counseled them then that if the state of things which they apprehended should exist when the convention met, they should take the action which they have now adopted.

I hope none who hear me will confound this expression of mine with the advocacy of the right of a State to remain in the Union, and to disregard its constitutional obligations by the nullification of the law. Such is not my theory. Nullification and secession, so often confounded, are indeed antagonistic principles. Nullification is a remedy which it is sought to apply within the Union, and against the agent of the States. It is only to be justified when the agent has violated his constitutional obligation, and a State, assuming to judge for itself, denies the right of the agent thus to act, and appeals to the other States of the Union for a decision; but when the States themselves, and when the people of the States, have so acted as to convince us that they will not regard our constitutional rights, then, and then for the first time, arises the doctrine of secession in its practical application.⁷⁵

But Davis maintained that:

Secession belongs to a different class of remedies. It is to be justified upon the basis that the States are sovereign. There was a time when none denied it. I hope the time may come again, when a better comprehension of the

theory of our Government and the inalienable rights of the people of the States, will prevent any one from denying that each State is a sovereign, and thus may reclaim the grants which it has made to any agent whomsoever.

He hoped that separation might be accomplished peacefully.

When you deny to us the right to withdraw from a Government which thus perverted threatens to be destructive of our rights, we but tread in the path of our fathers when we proclaim our independence, and take the hazard. This is done not in hostility to each other, not to injure any section of the country, not even for our own pecuniary benefit; but from the high and solemn motive of defending and protecting the rights we inherited, and which it is our sacred duty to transmit unshorn to our children.

. . . I am sure I feel no hostility to you, Senators from the North. I am sure there is not one of you, whatever sharp discussion there may have been between us, to whom I cannot now say, in the presence of my God, I wish you well; and such, I am sure, is the feeling of the people whom I represent towards those whom you represent. I therefore feel that I but express their desire when I say I hope, and they hope, for peaceful relations with you, though we must part. They may be mutually beneficial to us in the future, as they have been in the past, if you so will it.⁷⁶

Finally, he spoke as a Southern gentleman in words completely lacking in the harsh defiance and threatening challenge shouted by other departing senators. He closed with these calm words:

Whatever offense I have given which has not been redressed, or for which satisfaction has not been demanded, I have, Senators, in this hour of our parting, to offer you

my apology for any pain which, in heat of discussion, I have inflicted. I go hence unencumbered of the remembrance of any injury received, and having discharged the duty of making the only reparation in my power for any injury offered.

Mr. President, and Senators, . . . it only remains for me to bid you a final adieu.⁷⁷

Resuming his seat, he remained with his head down, his hands covering his face. Observers in the gallery said his shoulders shook during the thunder of applause. And that night his wife heard him murmur: "May God have us in His holy keeping and grant that before it is too late, peaceful councils may prevail."

PURPOSE AND CONDUCT OF THE WAR: Lincoln

Upon the outbreak of fighting at Fort Sumter on April 12, 1861, Lincoln issued a proclamation calling for 75,000 troops and appealing to all citizens to aid the government's "effort to maintain the honor, the integrity, and the existence of our National Union, and the perpetuity of popular government. He said the first move would be "to repossess the forts, places, and property which have been seized from the Union."⁷⁸ Further to deal with what he called an insurrection by "a combination of persons" too large to be dealt with by ordinary legal process. Lincoln announced a naval blockade of Southern posts.⁷⁹

Time and again during the first year and a half of the Civil War, Lincoln declared that the purpose of the war was to restore the Union. This was worth fighting for, because it represented the highest values of popular government and human rights. "The free institutions we enjoy," he asserted in his message to Congress on July 4, 1861, "have developed the powers, and improved the condition, of our whole people, beyond any example in the world." In an appeal to America's desire to prove to the rest of the world

that men are capable of governing themselves, he defined the war as essentially a people's contest. He said:

On the side of the Union, it is struggle for maintaining in the world, that form, and substance of government, whose leading object is, to elevate the condition of men—to lift artificial weights from all shoulders—to clear the paths of laudable pursuit for all—to afford all, an unfettered start, and a fair chance, in the race of life. . . . this is the leading object of the government for whose existence we contend.

I am most happy to believe that the plain people understand, and appreciate this. . . .

Our popular government has often been called an experiment. Two points in it, our people have already settled—the successful *establishing*, and the successful *administering* of it. One still remains—its successful *maintenance* against a formidable attempt to overthrow it. It is now for them to demonstrate to the world, that those who can fairly carry an election, can also suppress a rebellion—that ballots are the rightful, and peaceful, successors of bullets; and that when ballots have fairly, and constitutionally, decided, there can be no successful appeal, back to bullets; that there can be no successful appeal, except to ballots themselves, at succeeding elections. Such will be a great lesson of peace; teaching men that what they cannot take by an election, neither can they take it by a war—teaching all, the folly of being the beginners of a war.

Lest there be some uneasiness in the minds of candid men, as to what is to be the course of the government, towards the Southern states, *after* the rebellion shall have been suppressed, the executive deems it proper to say, it will be his purpose then, as ever, to be guided by the Constitution, and the laws; and that he probably will

have no different understanding of the powers, and duties of the Federal government, relatively to the rights of the states, and the people, under the Constitution, than that expressed in the inaugural address.

He desires to preserve the government, that it may be administered for all, as it was administered by the men who made it. . . .

The Constitution provides, and all the states have accepted the provision, that 'The United States shall guarantee to every state in the Union a republican form of government.' But, if a state may lawfully go out of the Union, having done so, it may also discard the republican form of government; so that to prevent its going out, is an indispensable *means*, to the *end*, of maintaining the guaranty mentioned; and when an end is lawful and obligatory, the indispensable means to it, are also lawful and obligatory. . . . No compromise, by public servants, could, in this case, be a cure; not that compromises are not often proper, but that no popular government can long survive a marked precedent, that those who carry an election, can only save the government from immediate destruction, by giving up the main point, upon which the people gave the election. The people themselves, and not their servants, can safely reverse their own deliberate decisions.⁸⁰

Lincoln undoubtedly judged the popular will accurately during 1861 and 1862. He realized that the majority of Northerners would support a war for preservation of the Union and with it popular government. But he knew equally well that a war for other ends—to abolish slavery, to subjugate the South, to assure Republican party dominance—would so divide Northerners that any unified war effort would be impossible. Indicating that the war's purpose was not abolition, Lincoln cancelled proclamations freeing slaves in local areas issued by Generals John C. Fremont and David

Hunter. And in his message to Congress in December, 1861 the President insisted that the war should "not degenerate into a violent and remorseless revolutionary struggle" but that "the integrity of the Union" remained "the primary object of the contest." The conflict continued in his view as "a war upon the first principle of popular government—the rights of the people."⁸¹

When humanitarian Horace Greeley, erratic publisher of the powerful *New York Tribune*, published his "Prayer of Twenty Millions" which attacked the President for failing to act against slavery, Lincoln responded on August 22, 1862, with a firm re-statement of the war's purpose:

I would save the Union. I would save it the shortest way under the Constitution. The sooner the national authority can be restored; the nearer the Union will be 'the Union as it was.' If there be those who would not save the Union, unless they could at the same time *save* slavery, I do not agree with them. If there be those who would not save the Union unless they could at the same time *destroy* slavery, I do not agree with them. My paramount object in this struggle is to save the Union, and *is not* either to save or to destroy slavery. If I could save the Union without freeing *any* slave I would do it; and if I could save it by freeing some and leaving others alone I would also do that. What I do about slavery, and the colored race, I do because I believe it helps to save the Union; and what I forbear, I forbear because I do *not* believe it would help to save the Union. I shall do *less* whenever I shall believe what I am doing hurts the cause, and I shall do *more* whenever I shall believe doing more will help the cause.⁸²

This did not mean that Lincoln did not favor ending slavery. Far from it. But he preferred that the end of slavery should come through consent, not through compulsion; by constitutional means,

not by violence. In his message of March 6, 1862 he urged Congress to provide some means of gradual, compensated emancipation of the slaves, with the federal government giving "pecuniary aid" to states that voluntarily abolished slavery. In July, 1862, he called a conference at the White House of border state representatives to urge that their states adopt gradual, compensated emancipation. To them he suggested that "Room in South America for colonization, can be obtained cheaply, and in abundance."⁸³ As a native son of a border state, Lincoln recognized the unique position of the border states and accorded them special consideration. And when he finally issued the Emancipation Proclamation, he exempted them from its application, conceding that men who had stuck loyally to the Union should not be penalized by losing their slaves.

In December 1862, when Lincoln submitted his annual message to Congress, preservation of the Union still remained the paramount object of the war. In a penetrating passage he declared

That portion of the earth's surface which is owned and inhabited by the people of the United States, is well adapted to be the home of one national family; and it is not well adapted for two, or more. Its vast extent, and its variety of climate and productions, are of advantage, in this age, for one people, whatever they might have been in former ages. Steam, telegraphs, and intelligence, have brought these, to be an advantageous combination, for one united people. . . .

There is no line, straight or crooked, suitable for a national boundary, upon which to divide. Trace through, from east to west, upon the line between the free and slave country, and we shall find a little more than one-third of its length are rivers, ... •

But there is another difficulty. The great interior region, bounded east by the Alleghenies, north by the British dominions, west by the Rocky Mountains, and south by

the line along which the culture of corn and cotton meets, and which includes part of Virginia, part of Tennessee, all of Kentucky, Ohio, Indiana, Michigan, Wisconsin, Illinois, Missouri, Kansas, Iowa, Minnesota and the territories of Dakota, Nebraska, and part of Colorado, already has above ten millions of people, and will have fifty millions within fifty years, if not prevented by any political folly or mistake. It contains more than one-third of the country owned by the United States—certainly more than one million of square miles. . . . territorially speaking, it is the great body of the Republic. The other parts are but marginal borders to it, the magnificent region sloping west from the Rocky Mountains to the Pacific, being the deepest, and also the richest, in undeveloped resources. In the production of provisions, grains, grasses, and all which proceed from them, this great interior region is naturally one of the most important in the world. . . . And yet this region has no seacoast, touches no ocean anywhere. As part of one nation, its people now find, and may forever find, their way to Europe by New York, to South America and Africa by New Orleans, and to Asia by San Francisco. But separate our common country into two nations, as designed by the present rebellion, and every man of this great interior region is thereby cut off from some one or more of these outlets, not, perhaps, by a physical barrier, but by embarrassing and onerous trade regulations. . . .

Our national strife springs not from our permanent part; not from the land we inhabit; not from our national homestead. There is no possible severing of this, but would multiply, and not mitigate, evils among us. In all its adaptations, and aptitudes, it demands union and abhors separation. In fact, it would, ere long, force reunion, however much of blood and treasure the separation might have cost.⁸⁴

In this message Lincoln again urged compensated emancipation, proposing three amendments to the Constitution. The federal government should: (1) compensate any state that abolished slavery by 1900; (2) pay loyal slave-owners whose slaves were freed by the chances of war; and (3) provide funds to colonize freed Negroes, with their own consent, outside the United States. Recognizing the complexity of the problem, he explained the mutual concessions and advantages of the proposal:

The emancipation will be unsatisfactory to the advocates of perpetual slavery; but the length of time should greatly mitigate their dissatisfaction. The time spares both races from the evils of sudden derangement—in fact, from the necessity of any derangement—while most of those whose habitual course of thought will be disturbed by the measure will have passed away before its consummation. They will never see it. Another class will hail the prospect of emancipation, but will deprecate the length of time. They will feel that it gives too little to the now living slaves. But it really gives them much. It saves them from the vagrant destitution which must largely attend immediate emancipation in localities where their numbers are very great; and it gives the inspiring assurance that their posterity shall be free forever. The plan leaves to each state, choosing to act under it, to abolish slavery now, or at the end of the century, or at any intermediate time, or by degrees, extending over the whole or any part of the period; and it obliges no two states to proceed alike. It also provides for compensation, and the general mode of making it. This . . . must further mitigate the dissatisfaction of those who favor perpetual slavery, and especially of those who are to receive the compensation. Doubtless some of those who are to pay, and not receive will object. Yet the measure is both just and economical. In a certain sense the liberation of slaves is the destruction of prop-

erty—property acquired by descent, or by purchase, the same as any other property. It is no less true for having been often said, that the people of the South are not more responsible for the original introduction of this property, than are the people of the North; and when it is remembered how unhesitatingly we all use cotton and sugar, and share the profits of dealing in them, it may not be quite safe to say, that the South has been more responsible than the North for its continuance. If, then, for a common object, this property is to be sacrificed, is it not just that it be done at a common charge? . . .

The aggregate sum necessary for compensated emancipation, of course, would be large. But it would require no ready cash; nor the bonds even, any faster than the emancipation progresses. This might not, and probably would not, close before the end of the thirty-seven years. At that time we shall probably have a hundred millions of people to share the burden, instead of thirty-one millions, as now. . . .

The proposed emancipation would shorten the war, perpetuate peace, insure this increase of population, and proportionately the wealth of the country.⁸⁵

Believing that ending slavery would shorten the war, Lincoln issued on September 22, 1862 a preliminary announcement that unless the seceded states returned to the Union by January 1, 1863, he would free their slaves. And on that date the final Emancipation Proclamation was published: "I do hereby order and declare that all persons held as slaves within said designated states and parts of states, are and henceforth shall be free." The Proclamation applied to all the Confederate states except Tennessee and parts of Louisiana and Virginia. In exercising his prerogative as military commander Lincoln regarded the Proclamation as one weapon in the military campaign to weaken the Confederate will to fight. Knowing that permanent steps must be taken, he con-

tinued to press for compensated emancipation; and he approved when in 1865 Congress adopted the Thirteenth Amendment prohibiting slavery. With this amendment the controversy ended that had divided Americans for generations.

But even after issuing the Proclamation, Lincoln continued to insist that emancipation was important because it contributed to the main purpose of the war—the preservation of the Union. On November 19, 1863, he made the cause of the Union the cause of human freedom in the direct, beautiful phrases of the address at Gettysburg.

Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal.

Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battlefield of that war. We have come to dedicate a portion of that field, as a final resting place for those who here gave their lives that this nation might live. It is altogether fitting and proper that we should do this.

But in a larger sense, we cannot dedicate—we cannot consecrate—we cannot hallow this ground. The brave men, living and dead, who struggled here have consecrated it, far above our poor power to add or detract. The world will little note, nor long remember, what we say here, but it can never forget what they did here. It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion—that we here highly resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and

that government of the people, by the people, for the people, shall not perish from the earth.⁸⁶

PURPOSE AND CONDUCT OF THE WAR: Davis

When he returned to Mississippi in January, 1861 after resigning from the Senate, Jefferson Davis was appointed commander of Mississippi's military forces. But on February 10, he received word of his election as President of the provisional government of the Confederate States of America. He then hastened to Montgomery, Alabama, where on February 18 he assumed office and delivered his inaugural address. In this speech Davis said that the sole motive of the Southern states in separating from the United States was "the desire to preserve our own rights, and promote our own welfare." Because Northern hostility made this impossible, withdrawal was the only recourse. He hoped that violence would not result, that "our career, as a Confederacy, may not be obstructed by hostile opposition to our enjoyment of the separate existence and independence we have asserted."⁸⁷

Like Lincoln, Davis faced a complex of intricate, worrisome problems. The Confederacy spawned its share of *prima donnas*, each of whom believed himself better qualified for the presidency than Davis. Opposing factions pressed President Davis with special demands: the extreme secessionists, the ultra state rights men, the radical pro-slavery champions who wanted to reopen the African slave trade, the free traders and those who wanted at least a tariff for revenue if not for the protection of Louisiana sugar, the fever-hot expansionists who would seize Cuba, Mexico, and Central America all at once. Consideration had to be given to winning over the border states of the upper South, and concessions had to be made, like the transfer of the capital from Montgomery to Richmond after proud Virginia's secession in April. For most cabinet posts, Davis selected conservative men who by opposing secession had alienated those who had borne the brunt of the long

agitation for state rights and Southern independence.

In his inaugural address on February 22, 1862, President Davis identified the Confederate cause as a struggle against "the tyranny of an unbridled majority, the most odious and least responsible form of despotism. . . ." "Therefore," he said, "we are in arms to renew such sacrifices as our fathers made to the holy cause of constitutional liberty."⁸⁸ Time and again during the war he repeated that the American Revolution was being fought again—with liberty and independence as the goal.

And since the Confederate aim was independence, Davis believed that the proper policy to follow was a defensive one. The government should be established and become an operating, functioning body; it should seek recognition from England and continental Europe, hold out the bait of unlimited trade in exchange for recognition and favorable commercial treaties (as the Continental Congress had done in 1776-78), bind foreign interests to the support of the Confederacy. If these things were accomplished, its overthrow by the North would be impossible. Historians have harped—perhaps with some justification—the Confederacy's failure in the ten peaceful weeks between the Montgomery convention and the fall of Sumter to obtain vast supplies of arms from Europe. But if her objective was independence and defense of her asserted rights, the South could hardly afford to appear in the world's eyes as an aggressive military power. She preferred to look for sympathetic support as a downtrodden, oppressed minority. Even immediately after Sumter, when Southern sentiment was as nearly united as it ever would be and enthusiasm for the Confederate cause ran high, Davis stressed defense, not attack; and he insisted that the South desired only to be left alone.

During the first three and a half years of war the subject of slavery inspired virtually no discussion in the Confederacy. It was merely assumed that slavery would remain an integral part of the Southern economic and social system. Although some disgruntled soldiers may have grumbled against fighting to preserve slavery and the privileges of the slaveholding aristocracy, officials in au-

thority by and large raised no question. But as time wore on, as Confederate fortunes declined, as military manpower ran low, some men began to look toward the slaves as a vast supply of potential soldiers who might yet save the cause. In 1864 Judah Benjamin, Confederate Secretary of State, broached to Davis a proposal to liberate slaves. The two immediate purposes in his plan would, he hoped, assure ultimate independence. The first was to win recognition abroad by proclaiming a beginning of the end of slavery, which had so long stood as a road block in the path of Confederate diplomatic progress. (Some evidence suggests that if the Confederacy had followed this course before 1863, England might have granted diplomatic recognition.) The second purpose was to secure badly needed soldiers to replenish the rapidly thinning Confederate army ranks, for the plan was to grant freedom to the Negro on condition that he fight in the army until the end of the war.

This startling proposal was contrary to all earlier Southern thinking, and men like R.M.T. Hunter, president *pro tem* of the Senate, exclaimed (in essence): "What did we go to war for, but to protect our property in slaves?" Davis, hesitant for a time, was at least partly won over by General Robert E. Lee favoring the enlistment of Negro troops. In November, 1864 Davis incorporated in his message to Congress a proposal for 40,000 such troops. But the lawmakers procrastinated. Finally they acted—but only in response to strong pressure from Davis—with a measure so feeble that only a few Negro companies were ever organized, and none joined Confederate forces at the front. In the last desperate months Congress authorized enlisting 200,000 slaves as soldiers on the promise of emancipation. Davis still hoped for European aid in return for emancipation and a generous shipment of cotton. But the move came too late to have any practical effect on the war.

WAR AND INDIVIDUAL LIBERTIES: Lincoln

The problem of balancing a democratic nation's security with the individual's freedom—a thorny one at best—becomes even more complicated under the pressure of military necessity and the emotionalism of war. The national interest demands a wholehearted, full-scale effort to effect an immediate conclusion of the war. And that war effort may be hampered by individuals who exercise their claimed right to speak what they think. The government of a nation “conceived in liberty” and dedicated to the enjoyment of equal rights by all must necessarily move with caution in the touchy area of civil liberties lest it destroy the very thing which the war is fought to preserve.

At the outbreak of the war President Lincoln on his own initiative, authorized commanding generals to suspend the writ of *habeas corpus* when necessary for military security. At the outset, this seemed particularly necessary in Maryland, where secession sentiment was strong and there was some movement toward secession. Suspension meant that military authorities could arrest and detain individuals without the ordinary legal process. And many persons were so arrested and detained. Some estimates place the total number of arbitrary arrests at over 30,000. Lincoln's policy was severely denounced on two grounds: that since only Congress, not the President, could suspend the writ of *habeas corpus*, Lincoln had violated the Constitution; and that any suspension violated the individual freedom, guaranteed by the First and Fifth Amendments.

Lincoln answered these objections in his message to Congress of July 4, 1861. He explained that as President he had taken a solemn oath to “take care that the laws be faithfully executed.” But he pointed out: “The whole of the laws . . . were being resisted, and failing of execution in nearly one-third of the States. Must they be allowed to finally fail of execution? Even had it been perfectly clear that, by the use of the means necessary to their execution, some single law, made in such extreme tenderness of the

citizen's liberty, that practically, it relieves more of the guilty, than of the innocent, should, to a very limited extent, be violated? To state the question more directly, are all the laws *but one* to go unexecuted, and the government itself go to pieces, lest that one be violated?" In answering those who insisted that only Congress could suspend *habeas corpus*, Lincoln maintained:

But the Constitution itself is silent as to which, or who, is to exercise the power; and as the provision was plainly made for a dangerous emergency, it cannot be believed the framers of the instrument intended, that in every case, the danger should have run its course, until Congress could be called together; the very assembling of which might be prevented . . . by the rebellion.⁸⁹

Military necessity, he was convinced, clearly justified his action.

In 1863 New York Democrats sent resolutions protesting strenuously against the administration's disregard of freedom of speech and its arbitrary arrests—in particular the arrest and military court conviction of ex-Congressman Clement L. Vallandigham of Ohio. And to this group Lincoln explained that saving the government from destruction required action that abridged the ordinary liberties of peace time. Rebel sympathizers and agitators were operating in the North to weaken the Union war effort, he said.

Yet, thoroughly imbued with a reverence for the guaranteed rights of individuals, I was slow to adopt strong measures, which by degrees I have been forced to regard as being within the exceptions of the Constitution, and as indispensable to the public safety. . . . And yet again, he who dissuades one man from volunteering, or induces one soldier to desert, weakens the Union cause as much as he who kills a Union soldier in battle. Yet this disuasion or inducement, may be so conducted as to be no defined crime of which any civil court would take cognizance.

Ours is a case of rebellion—so called by the resolutions before me—in fact, a clear, flagrant, gigantic case of rebellion; and the provision of the Constitution that “The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it” is *the* provision which specially applies to our present case. This provision plainly attests the understanding of those who made the Constitution that ordinary courts of justice are inadequate to “cases of rebellion”—attests their purpose that in such cases men may be held in custody whom the courts acting on ordinary rules, would discharge. Habeas corpus does not discharge men who are proved to be guilty of defined crime; and its suspension is allowed by the Constitution on purpose that, men may be arrested and held, who cannot be proved guilty of defined crime, “when, in cases of rebellion or invasion the public safety may require it.” This is precisely our present case. . . . Indeed, arrests by processes of courts, and arrests in cases of rebellion, do not proceed altogether upon the same basis. The former is directed at the small percentage of ordinary and continuous perpetration of crime; while the latter is directed at sudden and extensive uprisings against the government, which at most, will succeed or fail in no great length of time. In the latter case, arrests are made, not so much for what has been done, as for what probably would be done. The latter is more for the preventive, and less for the vindictive, than the former. . . .⁹⁰

Vallandigham's arrest, Lincoln argued with the ingenuity of a veteran lawyer, was ordered

because he was laboring, with some effect, to prevent the raising of troops, to encourage desertions from the army, and to leave the rebellion without an adequate military

force to suppress it. He was not arrested because he was damaging the political prospects of the administration, or the personal interests of the commanding general; but because he was damaging the army, upon the existence and vigor of which the life of the nation depends. . . . this gave the military constitutional jurisdiction to lay hands upon him. If Mr. Vallandigham was not damaging the military, then his arrest was made on mistake of fact, which I would be glad to correct. . . .

Long experience has shown that armies cannot be maintained unless desertion shall be punished by the severe penalty of death. The case requires, and the law and the Constitution, sanction this punishment. Must I shoot the simple-minded soldier boy who deserts, while I must not touch a hair of the wily agitator who induces him to desert? This is none the less injurious when effected by getting a father, or brother, or friend, into a public meeting, and there working upon his feelings, till he is persuaded to write the soldier boy, that he is fighting in a bad cause, for a wicked administration of a contemptible government, too weak to arrest and punish him if he shall desert. I think that in such a case, to silence the agitator, and save the boy, is not only constitutional but withal, a great mercy.

. . . I can no more be persuaded that the government can constitutionally take no strong measures in time of rebellion, because it can be shown that the same could not be lawfully taken in time of peace, than I can be persuaded that a particular drug is not good medicine for a sick man, because it can be shown to not be good food for a well one. Nor am I able to appreciate the danger . . . that the American people will, by means of military arrests during the rebellion, lose the right of public discussion, the liberty of speech and the press, the law of evidence, trial by jury, and habeas corpus, throughout the infinite

peaceful future which I trust lies before them, any more than I am able to believe that a man could contract so strong an appetite for emetics during temporary illness as to persists in feeding upon them during the remainder of his healthful life.⁹¹

In March, 1863 Congress adopted a national military conscription act. This was necessary because the state-administered draft and volunteering were not supplying enough men. Many objected to a federal draft, and riots resulted in Ohio, Pennsylvania, Wisconsin, New Jersey and Missouri. A violent outburst flared in New York City in July with mobs running wild for three days, burning, pillaging, and lynching. Governor Horatio Seymour wrote Lincoln requesting suspension of the draft in New York until its constitutionality could be tested before the courts. And Lincoln responded:

I cannot consent to suspend the draft in New York, as you request, because, . . . among other reasons, *time* is too important. . . . I do not object to abide a decision of the United States Supreme Court, or of the judges thereof, on the constitutionality of the draft law. In fact, I should be willing to facilitate the obtaining of it; but I cannot consent to lose the *time* while it is being obtained. . . . [The Southern conscription system] produces an army with a rapidity not to be matched on our side, if we first waste time to re-experiment with the volunteer system, already deemed by Congress, and palpably, in fact, so far exhausted, as to be inadequate; and then more time, to obtain a court decision, as to whether a law is constitutional, which requires a part of those not now in the service, to go to the aid of those who are already in it; and still more time, to determine with absolute certainty, that we get those, who are to go, in the precisely legal proportion, to those who are not to go.

My purpose is to be, in my action, just and constitutional; and yet practical, ...⁹²

Here was Lincoln's pragmatic nature speaking; the law was to be observed, but where it impaired practical results, it had to be stretched and made effective.

The difficulty in dealing with the touchy area of human freedom was further complicated. He explained in 1864:

The world has never had a good definition of the word liberty, and the American people, just now, are much in want of one. We all declare for liberty; but in using the same *word* we do not all mean the same *thing*. With some the word liberty may mean for each man to do as he pleases with himself, and the product of his labor; while with others the same word may mean for some men to do as they please with other men, and the product of other men's labor. Here are two, not only different, but incompatible things called by the same name—liberty. And it follows that each of the things is, by the respective parties, called by two different and incompatible names—liberty and tyranny.

The shepherd drives the wolf from the sheep's throat, for which the sheep thanks the shepherd as a *liberator*, while the wolf denounces him as the destroyer of liberty, especially as the sheep was a black one. Plainly the sheep and the wolf are not agreed upon a definition of the word liberty, and precisely the same difference prevails today among us human creatures, even in the North, and all professing to love liberty.⁹³

But Lincoln saw encouraging signs in the struggle to preserve human liberty. He told a crowd serenading him at the White House after his reelection in November 1864:

It has long been a grave question whether any government, not *too* strong for the liberties of its people, can be strong *enough* to maintain its own existence, in great emergencies.

On this point the present rebellion brought our republic to a severe test; and a presidential election occurring in the regular course during the rebellion added not a little to the strain.

But the election was a necessity.

We cannot have free government without elections; and if the rebellion could force us to forego, or postpone a national election, it might fairly claim to have already conquered and ruined us. The strife of the election is but human nature practically applied to the facts of the case. What has occurred in this case, must ever recur in similar cases. Human nature will not change. On any future great national trial, compared with the men of this, we shall have as weak and as strong; as silly and as wise; as bad and good. Let us, therefore, study the incidents of this, as philosophy to learn wisdom from, and none of them as wrongs to be revenged.

But the election, along with its incidental, and undesirable strife, has done good too. It has demonstrated that a people's government can sustain a national election, in the midst of a great civil war. Until now it has not been known to the world that this was a possibility.⁹⁴

WAR AND INDIVIDUAL LIBERTIES: Davis

One Confederate war aim was to gain Southern independence, but the underlying purpose was to protect the rights of Southerners against the interference of a hostile government in Washington dominated by antagonistic Northerners. How well then, did the Confederate government, faced with carrying on a cruel and ex-

hausting war, deal with the problem of individual liberties in wartime?

At the outset Jefferson Davis sounded a brave note, protesting in his message to Congress of November 18, 1861:

Our people now look with contemptuous astonishment on those with whom they have been so recently associated. . . . When they see a President making war without the assent of Congress; when they behold judges threatened because they maintain the writ of *habeas corpus* so sacred to freedom; when they see justice and law trampled under the armed heel of military authority, and upright men and innocent women dragged to distant dungeons upon the mere edict of a despot; . . . they believe that there must be some radical incompatibility between such a people and themselves. With such a people we may be content to live at peace, but the separation is final, and for the independence we have asserted we will accept no alternative.⁹⁵

Again on February 22, 1862, Davis denounced Lincoln's suspension of *habeas corpus* and the consequent arrests; the barbarous brutality of Northerners; the "Bastilles filled with prisoners arrested without civil process"; "a State Legislature controlled by the imprisonment of members"; "elections held under threats of military power"; and "civil officers, peaceful citizens, and gentlewomen incarcerated for opinion's sake." In contrast, he boasted, Southerners have witnessed "no act on our part to impair personal liberty or the freedom of speech, of thought, or of the press. The courts have been open, the judicial functions fully executed, and every right of the peaceful citizen maintained. . . ."⁹⁶

But five days later, authorized by Congress, Davis ordered the towns of Norfolk and Portsmouth placed under martial law. And two days after that Richmond was put under military rule. Such acts, of course implied suspension of *habeas corpus*. Many suspect

persons in the Confederacy were imprisoned without civil trial and for offenses not recognized in civil law. Military necessity and martial law were now operating on both sides of the front. And, like Lincoln, Davis was soon charged with military despotism.

In spite of the charges and accusations, Davis's record on civil liberties shows up well in most respects. According to William E. Dodd, "Davis was not indifferent to the personal liberty of his people nor forgetful of the rights of individuals." Reluctant to suspend *habeas corpus*, "when he did finally yield to the needs of the situation, it was only under the forms of law and at the request of Congress. . . . In this respect the contrast with President Lincoln is all in favor of the Southern leader." He also explains that "when the need for martial law in a given locality had passed, Davis was quick to restore the authority of the civil magistrates. Few Southern opponents of secession suffered for their convictions at his hands." The South witnessed no "midnight arrests . . . and the greatest freedom of speech prevailed. Congress set the example of criticism of the Executive, and the policy of Congress was in turn criticized by both Davis and Lee. . . . No newspaper was suppressed in the South by order of the government, and three of the greatest journals were from the outset hostile to Davis, indulging in the most unseemly abuse."⁹⁷

TARIFF: Lincoln

From 1842 on, Lincoln consistently adhered to the Whig position, which favored a tariff "to raise revenue" and "to foster our manufactures as to make our nation PROSPEROUS in Peace and INDEPENDENT in War." In the 1840's he "made more speeches on that subject than on any other," steadily advocating protective tariff. Lincoln was disappointed when in 1846 Congress passed the Walker Tariff, which lowered rates in a move toward a tariff for revenue only, not protection.

Some time between his being elected to Congress in 1846 and

taking his seat in the House in December 1847, Lincoln set down his thoughts on the tariff question. Perhaps he intended to use the notes in the expected tariff debate in the forthcoming session:

I suppose the true effect of duties upon prices to be as follows: If a certain duty be levied upon an article which, by nature can not be produced in this country, as three cents a pound upon coffee, the effect will be, that the consumer will pay one cent more per pound than before, the producer will take one cent less, and the merchant one cent less in profits—in other words, the burthen of the duty will [be] distributed over consumption, production, and commerce, and not confined to either. But if a duty amounting to full protection be levied upon an article which can be produced here with as little labor as elsewhere, as iron, that article will ultimately, and at no distant day, in consequence of such duty, be sold to our people cheaper than before, at least by the amount of the cost of carrying it from abroad.

. . . all *carrying*, and incidents of carrying, of articles from the place of their production, to a *distant* place for consumption, which articles could be produced of as good quality, in sufficient quantity, and with as little labour, at the place of consumption, as at the place carried from, is useless labour. . . .

. . . an opinion very generally entertained [holds] that the condition of a nation, is *best*, whe[ne]ver it can *buy cheapest*; but that is not necessarily true, because if, at the same time, and by the same cause, it is compelled to *sell* correspondingly cheap, nothing is gained. Then, it is said, the best condition is, when we can *buy cheapest* and *sell dearest*; but this again, is not necessarily true; because with both these, we might have scarcely anything to sell—or, which is the same thing, to buy with. To illustrate this, suppose a man in the present state of things is

laboring the year round at ten dollars per month, which amounts in the year to \$120—a change in affairs enables him to buy supplies at half the former price, to get fifty dollars per month for his labour; but at the same time deprives him of employment during all the months of the year but one. In this case, though goods have fallen one half, and labour risen five to one, it is still plain, that at the end of the year, the labourer is twenty dollars poorer, than under the old state of things.

These reflections show, that to reason and act correctly on this subject, we must look not merely to *buying* cheap, nor yet to buying cheap *and* selling dear; but also to having constant employment, so that we may have the largest possible amount of something to sell. . . .

. . . To secure to each labourer the whole product of his labour, or as nearly as possible, is a most worthy object of any good government. But then the question arises, how can a government best, effect this? In our own country, in its present condition, will the protective principle *advance* or *retard* this object? Upon this subject, the habits of our whole species fall into three great classes—useful labour, useless labour, and idleness. Of these the first only is meritorious, and to it all the products of labour rightfully belong; but the two latter, while they exist, are heavy pensioners on the first, robbing it of a large portion of its just rights. The only remedy for this is, as far as possible, to drive useless labour and idleness out of existence. . . . Before making war upon this [useless labour], we must learn to distinguish it from the useful. . . . All labour done *directly* or *incidentally* in carrying articles to their place of consumption, which could have been produced in the sufficient abundance, *with as little labour, at the place of consumption*, as at the place they were carried from, is useless labour. . . .

. . . This useless labour I would have discontinued, and

those engaged in it, added to the class of useful labourers. If I be asked whether I would destroy all commerce, I answer, "Certainly not"—I would continue it where it is *necessary*, and *discontinue* it, where it is not. An instance: I would continue commerce so far as it is employed in bringing us coffee, and I would discontinue it so far as it is employed in bringing us cotten [sic] goods. . . .

If at any time all labour should cease, and all existing provisions be equally divided among the people, at the end of a single year there could scarcely be one human being left alive—all would have perished for want of subsistence.

So again, if upon such division, all that *sort* of labour, which produces provisions, should cease, and each individual should take up so much of his share as he could, and carry it continually around his habitation, although in his carrying, the amount of labour going on might be as great as ever, so long as it could last, at the end of the year the result would be precisely the same—that is, none would be left living.

The first of these propositions shows, that universal *idleness* would speedily result in universal *ruin*; and the second shows, that useless labour is, in this respect, the same as idleness.

I submit, then, whether it does not follow, that *partial* idleness, and partial *useless labour*, would, in proportion of their extent, in like manner result, in partial ruin—whether if *all* should subsist upon the labour that *one half* should perform, it would not result in very scanty allowance to the whole.

Believing that these propositions . . . , I . . . proceed to try to show, that the abandonment of the protective policy by the American Government, must result in the increase of both useless labour and idleness; and so, in

pro[por]tion must produce want and ruin among our people.⁹⁸

But Lincoln's protective tariff views made little headway, and by 1859 he readily conceded to "have been entirely beaten out on the tariff question," believing "that, just now, revival of that question, will not advance the cause itself, or the man who revives it."⁹⁹

When the Republican convention of 1860 adopted a protective tariff plank, with the hope of winning the Pennsylvania vote, Lincoln approved. As President-elect he spoke in Pittsburgh, en route to Washington, on February 15, 1861:

So long as direct taxation for the support of the government is not resorted to, a tariff is necessary. The tariff is to the government what a meal is to the family; but while this is admitted, . . . the question as to how far imports may be adjusted for the protection of home industry, gives rise to various views and objections. . . .

I have long thought that if there be any article of necessity which can be produced at home with as little or nearly the same labor as abroad, it would be better to protect that article. Labor is the true standard of value. If a bar of iron, got out of the mines of England, and a bar of iron taken from the mines of Pennsylvania, be produced at the same cost, it follows that if the English bar be shipped from Manchester to Pittsburg, and the American bar be shipped from Pittsburg to Manchester, the cost of carriage is appreciably lost. If we had no iron here, then we should encourage its shipment from foreign countries; but not when we can make it as cheaply in our own country. This brings us back to our first proposition, that if any article can be produced at home with nearly the same cost as abroad, the carriage is lost labor.

Adding that he considered "an early revision of the tariff indispensable," he promised to study the question thoroughly "so that when the time for action arrives adequate protection can be extended to the coal and iron of Pennsylvania, the corn of Illinois, and the 'reapers of Chicago.'" ¹⁰⁰

During the Civil War Congress modified tariff legislation in 1861, 1862, and 1864. The first modification, which placed duties on sugar, coffee, tea, and other imported necessities, was largely a revenue-producing move. But the act not only increased rates on non-American-produced items but boosted protective levies on goods that were domestically produced; and it drastically cut down the list of duty-free goods. By 1864 with manufacturers complaining that unfair internal excises on manufactured goods were injuring them Congress responded by imposing "compensatory" duties on competing foreign products. Some rates ran as high as 100%; the average was 47%. Although Lincoln approved all these measures, he never made it clear whether he did so out of conviction or wartime necessity.

TARIFF: Davis

In tariff policy Davis followed the general Southern line. As early as 1846 he opposed a protective tariff as unconstitutional. Davis believed the Constitution did not grant Congress power to legislate for the benefit of any particular class or section at the expense of the rest of the country. In one of his first public political statements, championing Calhoun for President, Davis took a stand for " 'free trade,' by which is meant . . . the most liberal principles of commerce, and from which we may anticipate . . . the freest exchange of the products of different soils and climates, the largest amount of comforts for a given amount of labor." He considered "unrestricted commerce" the best policy for "Mississippians, who rely upon a foreign market for the disposal of their products." ¹⁰¹

As a Congressman Davis supported the Walker Tariff of 1846, because it adopted the *ad valorem* rule and in "restricting its operation to the revenue limit" implemented "the great principle of taxing in proportion to the benefits conferred." He opposed a protective tariff because it discriminated in favor of manufacturers and bore heavily on "the necessities of life."¹⁰² In 1853 he re-emphasized his support of free trade in a speech made in New York. There he talked of free trade, but he seems to have meant a tariff for revenue only.

The tariff revision of 1857 was not entirely to Davis's taste. By expanding the free list on certain raw materials it benefitted manufacturers and in some instances provided protection by substituting specific for *ad valorem* duties. He said, in 1859, that he would much prefer to return to the tariff of 1846 than maintain the 1857 revision.¹⁰⁴

The 1846 tariff, he thought, discriminated less against the laborer in favor of the capitalist. Although he used the term *laborer*, he seems to have meant that the South's export trade would be hurt by the tariff and manufactured products would cost Southern *buyers* more because of it.¹⁰⁵ He continued to argue in the Senate in June, 1860 that the tariff should be adjusted in the interest of the consumer:

I look upon all duties imposed on imports as a mode of taxation, and as the most expensive mode in which a given amount of money can be raised. It imposes a large amount of tax upon the consumer which does not go into the public Treasury. . . . [He would] reduce it by deliberate examination as to how we can scale the duties down for the great mass of consumers. So far as any discrimination is made, let it be not made for the benefit of any home product, but to impose the burdens of government more upon property and less upon consumption.¹⁰⁶

The Confederate constitution, drawn up not long afterward, prohibited Congress from imposing a protective tariff. Of this Davis heartily approved.

INTERNAL IMPROVEMENTS: Lincoln

Americans have always been a mobile people. To a country with rapidly expanding territory and growing population, improvement in transportation was of vital concern. And Americans were fully agreed that provision must be made for easier shipment of goods from interior farms to seaports and trade centers and for easier movement of people from one part of the country to another. But great disagreement raged over the best means of securing more efficient transportation. A technological revolution in the nineteenth century spawned the steamboat and then the steam locomotive.

The major transportation question of the Lincoln-Davis generation was whether some form of government aid should be provided for the construction of roads, canals, and railroads, and more particularly whether the federal government should actually sponsor or participate in building such facilities. Ever since Andrew Jackson's sharp veto in 1832, of the Maysville Road bill which outlined federal aid for a road from Maysville, Kentucky to Lexington, Democrats generally held to the view that providing better roads was the responsibility of the state. But they found ways of evading the seeming constitutional barrier against federal construction. For years the United States government had followed a policy of granting the States, for road-building projects, a percentage of the proceeds of federal land sales within the state. And in 1850 Congress adopted an act whereby the federal lands were made available to states for building the Illinois Central railroad.

As a Westerner and as a resident of an undeveloped State, Lincoln had spoken and labored from his first entry into politics in 1832, for internal improvements in Illinois. As a Congressman,

Lincoln delivered an extended speech on June 20, 1848 on federal aid for internal improvements. Just before this President James K. Polk had vetoed a river-harbor bill on the grounds of lack of constitutional power. Lincoln cited such authorities as Justice Joseph Story to prove that Polk was wrong and asserted that power to make internal improvements flowed from the taxing and commerce powers of the federal government. In answer to Polk's objection to the inequality and injustice of taxing all for improvements benefiting only a few in specific areas, Lincoln replied:

Inequality is certainly never to be embraced for its own sake; but is every good thing to be discarded, which may be inseparably connected with some degree of it? If so, we must discard all government. This capitol is built at the public expense, for the public benefit[;] but does any one doubt that it is of some peculiar local advantage to the property holders, and business people of Washington? Shall we remove it for this reason? and if so, where shall we set it down, and be free from the difficulty? . . . I make no special allusion to the present president when I say there are few stronger cases in this in this [sic] world, of 'burthen to the many, and benefit to the few'—of 'inequality'—than the presidency itself is by some thought to be. An honest laborer digs coal at about seventy cents a day, while the president digs abstractions at about seventy dollars a day. The *coal* is clearly worth more than the *abstractions*, and yet what a monstrous inequality in the prices! Does the president, for this reason, propose to abolish the presidency? He *does* not, and he *ought* not. The true rule, in determining to embrace, or reject any thing, is not whether it have *any* evil in it; but whether it have more of evil, than of good. There are few things *wholly* evil or *wholly* good. Almost everything, especially of governmental policy, is an inseparable compound of the two;

so that our best judgment of the preponderance between them is continually demanded. On this principle the president, his friends, and the world generally, act on most subjects. Why not apply it, then, upon this question? Why, as to improvements, magnify the *evil* and stoutly refuse to see any *good* in them?¹⁰⁷

Lincoln's approach to such problems was typically pragmatic. The way for Congress to apply its "best judgment," according to Lincoln, was to determine what needed to be done, what funds were available, and, on the basis of statistical data, what projects were most important. As to President Polk's suggestion that local tonnage duties be used for local internal improvements Lincoln rather facetiously argued that there could be no tonnage duties for construction of a canal, for instance, unless there were first funds to build a canal which would produce the tonnage duties.

In the 1850's Lincoln spoke but little on the subject of internal improvements. When nominated in 1860 for President, he reaffirmed his old Whig belief that the Federal government should support such projects, and he expressed approval of his party's platform which asked for federal aid in building a transcontinental railroad. When Congress adopted the Pacific railroad bill that provided large federal subsidies, Lincoln seems to have acquiesced rather than initiated. He signed the measure, performed such legally required acts as designating the line's starting point, appointed the government directors, set the gauge of track, and reported progress to Congress.

INTERNAL IMPROVEMENTS: Davis

Davis usually voiced the strict constructionist view on river and harbor improvements. The Constitution, he maintained, gave the central government "as the agent of the States certain specific enumerated powers and reserved all else to the States and the

people. It has no right then to exercise any other power than such as they granted expressly by the Constitution." Could the federal government make improvements in rivers and harbors under this rigid view? It could and it could not, according to Davis. Whether the proposed improvement fell within federal power depended upon its type, nature, and location. Since the federal government was entrusted with the defense of the country, river and harbor works could be constructed by the United States where necessary for military purposes.

In a long speech as Senator in March, 1851 Davis explained his position:

I do not wish to be understood as opposing the improvement of rivers and harbors, nor the making of canals and roads. I am opposed to such works by the Federal Government, save where required for the use of the Army and Navy, and authorized by the grant for military purpose. You have a right upon the seaboard or upon the lakes to construct harbors necessary for your navy and the national defense. You have a right for military object, to make the necessary roads and improvements in rivers. This is a grant narrowly limited and doubly restricted; the right terminates with the necessity of exercising it upon the Federal Government. The moment a sufficient population has assembled there to take upon themselves the responsibilities and duties of a State, the necessity for military defense passes away, except so far as it may form a part of our national frontier. . . .¹⁰⁸

The military usefulness of the project had to be clearly demonstrated. Improvements for commercial purposes alone or for general welfare reasons Davis would not support. He approved and as Secretary of War supervised the dredging of the lower Mississippi, because he believed that this operation was essential for defense. But he could not accept in 1851 Lewis Cass's argument

. . . that the appropriations for the Mississippi river are rendered constitutional by the great extent of the country drained by its tributaries; that it becomes national because ramified through a great number of States, and accommodating a great number of people. If this be so, and if we appropriate money for anything which involves the interest of a great number of persons, why might we not appropriate money to improve the culture of wheat, of corn, or of cotton. If it be the number of persons interested, rather than the letter of the Constitution which is to decide, then it follows that the interest being sufficiently large to exercise a controlling power, the compact is silenced by the voice of the multitude, and the minority are bound as such to contribute to the support of the majority, because it is greater. This, sir, is the reverse of the principles of our Government, but of all sound theory of social and political organization.¹⁰⁹

Davis strongly opposed improvements that aided one particular port or locality. On numerous occasions he flailed at proposals to spend federal funds on improving the harbor of Chicago. In 1858 he suggested that the city itself should take charge of federal improvements already made there and that Congress should authorize states to levy tonnage duties on foreign vessels using their ports. The proceeds would go to building and maintaining harbor works.¹¹⁰

Although Davis opposed direct federal aid for local river and harbor improvements, he became a vigorous champion of a policy to grant federal lands for railroad building. This seemingly inconsistent position Davis explained with some logic. The Constitution clearly granted to Congress the power to dispose of public lands. Congress could then grant lands to the states to encourage the building of transportation facilities. This was different from using federal funds to build local facilities, for the lands had been specifically granted to the states, and benefits would accrue to all

through the subsequent rise in value of public lands adjoining the new railroad.

As he put it in supporting the 1850 bill to grant federal land to Illinois for Illinois Central Railroad, which would run from Chicago to the Gulf of Mexico:

If we grant land other than through which the road is constructed, for the purposes of the road, I see no reason why we should not grant it to aid internal improvements in other States. Nor do I see, in either aspect, any difference between thus granting land or taking money from the treasury to build these works. There is a great distinction between this proposition and one which confines the grant to the land through which the road passes. It is, first, a distinction of principle; for, whilst I deny the power of the Government to appropriate public money for these improvements, it must be conceded the power to dispose of the public lands with certain conditions growing out of the nature of the trust, is fully conferred. For instance, if these lands are unsold or not taken up, we can, by granting a portion of them, construct a road which will bring the adjoining lands into the market, as a means proper to execute the trust, to dispose of the public domain for the common benefit of the States. We gain, first, something to the treasury by the sale of lands, which would otherwise be unsaleable, and we gain far more than what is received for the lands, in the revenue which will constantly flow into the treasury, when the lands are occupied and cultivated, by the increased demand for the imports upon which the revenue is raised. This is a reason for granting land which I recognize as within our power and duty as trustee for its disposal. This is the great difference in principle, between a grant of land connected with and remote from the road to be constructed. It carries also two limitations with it. First, it is limited to such

grants as are made at the time the lands are unsettled, and in the forest state. It carries a limitation with it then as to time; and by restricting the grant to the land through which the road passes, it carries a limitation as to space.¹¹¹

He would cede the right of way to the railroad where it passed through public lands. But he would limit the granting of alternate sections to the area of public lands lying within fifteen miles of the actual line—not forty or fifty miles distant. Under the federal land survey system, all public land had been surveyed and set off into one-square-mile sections, comprising 640 acres each. Thirty-six sections formed a township, square in form, six miles on each side. The railroad-aid proposal would grant one section of public land of the railroad right of way on alternate sides for each mile of railroad built. He supported another proposal to grant to Mississippi certain federal lands within the state for a railroad which would go to the Alabama line. Of this proposal he said:

it would be a great gain to the Federal Government either to assign or to sell these lands. They have been from twenty to thirty years in market. They are unsaleable, partly from their poverty and partly in consequence of their remoteness from a market for their produce. Anything that will bring them into market, and facilitate their sale, even if it should not be for more than twelve and a half cents per acre, would be a decided gain to the Government, in enabling us to get rid of the maintenance of various expensive land offices. Nay, I will even go so far as to say that, in my opinion, the Government would be a gainer to give the lands away.¹¹²

But Davis had doubts about the proposal for federal money subsidies to companies planning to build railroads from the Atlantic to the Pacific Oceans across Panama and the Tehuantepec Isthmus in Mexico. Rather than subsidize such “external im-

provements," he would have the government support the building of an internal railroad to the Pacific coast. "I wish to confine the expenditure of any money for the establishment of a communication with the Pacific within our own country," he said. Such a line was needed, he maintained as early as 1850, if Americans residing on the shores of the Pacific "are to be bound permanently to this Union."¹¹³

Upon assuming the post as Secretary of War in 1853 Davis set to work energetically to put through the Pacific railroad project. Since Congress had already authorized a survey of possible routes, it fell to Secretary Davis to attend to the details of appointing officers to make the surveys, to issue frequent instructions, and, to rouse public support for the project. During his tour of the Middle Atlantic states with President Pierce, Davis seized every opportunity to advocate the Pacific railroad. At Philadelphia he declared that such a railroad was vital to the defense of American territory.

If the Pacific possessions should be threatened by a hostile fleet, the government, would have no navy to interpose for their protection; and if that hostile fleet belonged to such a power as England or France, it would take all the navy of the United States to keep a road open which would cross either of the Isthmuses of this continent. And while the navy of the United States was thus employed, what would be more easy than for such a maritime power as either of these to strike at those possessions, and rend them from these States even to the extent of the gold regions which lay behind the coast. . . .¹¹⁴

Difficulties in the way of constructing a railroad to the Pacific were great, but he assured a New York audience that: "Science, with the energy of our people, will find a way across the desert and over the mountains."¹¹⁵

The need for developing means of communication with the Far

West was so immediately urgent, in view of California's rapidly growing population, that Davis even introduced camels for the use of military parties in crossing "the sterile deserts."

When the War Department surveys were completed, an impressive ten-volume report was made to Congress which described four practical routes. Davis favored the southern route, of course, because it would be physically the easiest to build and because it would benefit the South. Feeling sure that the Southern route would be selected, he was willing to let construction cost determine which route was best.¹¹⁶

The advantages of such a road would be great. Trade with the Far West would be facilitated. Defense would be much simplified and its cost reduced. In 1856 Davis told a Representative:

It would be difficult to estimate in money the value of a Pacific railroad and the saving which it would effect in war, or the development it would bring about in peace. In war it would render comparatively easy and economical what without it would be scarcely practicable. It would be too moderate an estimate to say that the yearly saving in transportation of army supplies alone would be at present rates 20,000,000, or at war rates even 80,000,000 dollars. . . . this would be but one *item* in the list of valuable results that would flow from its construction. . . .

During peace, the cost of transporting troops to the Pacific territories by a railroad, even at prices greatly enhanced over those of railroads east of the Mississippi river, would be about two thirds of that by the isthmus routes and the time would be less than one third.

The cost of sending troops and supplies to the interior plains and mountains would be but one sixth of what it is now, and the time occupied less than one twentieth.¹¹⁷

Back in the Senate in 1858, Davis continued to work for a Pacific railroad. He now held it "to be a constitutional obligation upon

the United States" as part of "our duties to defence toward the coast of the Pacific." But as a strict constructionist he would limit federal aid to granting land for the right of way and additional land from the public domain in the federal territories. The railroad should not be built by the government but by private capital. And the federal government should make adequate arrangements with the owners to insure transportation of troops, supplies, and mails on advantageous terms. Sectional hostility in the fifties stymied Congressional agreement on the best route. And no action came until 1862, when the Southern states had withdrawn from the Union. It must have been especially galling to Davis to see a Northern Congress designate a Northern route for his pet project.

LAND: Lincoln

The federal government had since its beginning been disposing of the public domain in the largest continuous real estate transaction in history. All Americans agreed that government land should be transferred to private hands but, men differed greatly as to the manner and terms. The policy at any given time reflected those sectional and class interests currently in ascendancy.

In general, the Northeast, whose manufacturers fancied that cheap western land drained off workers and led to higher wages, favored a policy of high prices for land and slow, orderly settlement. Desiring also a protective tariff, the Northeast hoped that land sale proceeds would not be so large as to make tariff revenue unnecessary. Although the Southeast generally opposed a liberal land system, they shifted, in a bid for Western alliance, to supporting cession of public lands to the states wherein they lay. This would decrease federal power. Later, the Southeast moved to oppose any schemes for free-land distribution. Although Westerners favored for the most part a system of free or low-priced land, they differed on details. Men like Henry Clay who came from the older, more settled West where citizens hoped to see industry take root if en-

couraged by a tariff, urged distributing public land proceeds to all the states according to population in order to check a potential federal treasury surplus that would lessen need for a tariff. They also opposed a preemption policy that tended to drain off population. Other Westerners advocated a wide-open land policy—preemption giving squatters first chance at the federal lands they had been illegally occupying prior to federal survey and homestead grants to actual settlers.

By 1850 Congress had adopted preemption. It continued to charge \$1.25 per acre for public land, but it made many cessions of public lands to states for such purposes as education and internal improvements. A free homestead measure, though defeated when first proposed in Congress in 1846, was steadily demanded throughout the 1850's.

As a Westerner—and as an ex-surveyor—Lincoln had long been concerned with the land question. As a Whig he ordinarily followed Clay's lead, favoring distribution of land but opposing lowering of land prices. Yet at the same time he supported purchase of federal land at reduced prices by a state wherein the land lay. He was against lowering land prices, a policy he feared would enrich speculators. Lincoln claimed to speak for the poor settler. His policy, he urged, was designed to benefit the settler as well as the state of Illinois. And he supported outright cession to Illinois of certain federal lands for internal improvements. He also approved Congress's grant of "swamp and overflowed lands" to the states in which they lay, including Illinois.¹¹⁸

In the 1850's the slavery question increasingly obscured the land question, and Lincoln made few public statements on land policy. The Republican platform of 1860 carried a proposal for homestead legislation, which had passed Congress in that year only to be vetoed by President Buchanan. Speaking in Cincinnati on February 12, 1861, Lincoln said: "In regard to the Homestead law, . . . I am in favor of cutting up the wild lands into parcels, so that every poor man may have a home. . . . and opportunity of benefiting his condition." In May, 1862 President Lincoln signed

the Homestead Act, which provided that a 160-acre tract could be obtained by a settler who must live on it and make certain improvements within five years.¹¹⁹

LAND: Davis

As a state rights spokesman Jefferson Davis favored a dual federal land policy of graduation and cession. As Senator in 1850 he observed: "I have long been an advocate of the graduation of the price of public lands. I have been an advocate of the surrender to the States of those lands that could not be sold within a certain term of years." His object was two-fold: to transfer less desirable federal lands into the hands of those who would actually use them,—and incidentally to benefit thereby the federal treasury; and to remove the federal government control of lands within the boundaries of states.¹²⁰

In Davis's opinion, federal public lands might also be granted to states to encourage such projects as building railroads. But he would place limitations on such grants, as has been seen in his attitude toward internal improvements. But on a bill in 1850 to grant lands to the states for the benefit of the "indigent insane," Davis protested:

I look upon this as a proposition to make the United States Government a mere source of charity. . . . This Government was intended to be one of specific enumerated powers. The purposes for which money was to be raised were enumerated and beyond those enumerated there are only such as are necessary to carry the enumerated powers and grants into effect. If we can found an institution for the indigent insane, why can we not establish one for the orphans of the country? If we can establish hospitals to cure the insane, why not for the diseased of the country? Why may we not establish common schools at the expense

of the Government all over the land, to teach those who are ignorant but of sound mind? . . . if Senators forget the Constitution in consulting one case, I would ask what limits are there to appropriations from the public lands of all the States in which they lie, under the claim that it was done under the principle of proprietorship—that the grant was made necessary to increase the value of the land that remained after the grant. But no such plea can be set up here. This is a professed charity. This land is to be sold, and the Government is to take stock, create a perpetual fund to supply these eleemosynary institutions for the indigent insane. Next the blind and deaf will be appealed for, and every class of the community suffering from poverty and want have equal claims. This is a departure from that principle which alone can maintain this Government in its purity, that we shall refer constantly to our grant of power and ask whether this power is conferred or not.¹²¹

When it was argued that federal land was already being granted to states for the support of schools, Davis replied:

The school sections in the different States are granted as a part of that compact which exists between the United States and the State sovereignties. It is done upon the same principle as that upon which we grant them a percentage of all public land sold in a State. The State forbears to tax the land owned by the United States for the first five years after it is sold. In consideration of this forbearance, the United States grant to the State certain lands for colleges and schools. So far as we have granted lands for railroads and canals . . . we have always endeavored to limit the grants to a principle which would naturally govern any large landholder to grant a portion of his lands towards improvements in order to increase the value

of that which remains. I have always sought to govern my votes by that principle.¹²³

But Davis approved giving land bounties to soldiers who had served in the Mexican War.¹²¹

Speaking of the proposed land grant for a Pacific railroad, Davis clearly stated his views in 1858: "I restrict these grants to the narrowest limits; . . . I do not think the Government should allow the corporation to take possession of such an immense district, erecting as it were, principalities in the public domain, and excluding the citizens of the United States from their possessions."¹²⁴

A year later Davis summarized his position:

So far as grants of land have been made to construct railroads, merely on the general theory that railroads were a good thing, the Federal Government has violated its trust and exceeded the powers conferred upon it; but where a grant has been made of a certain portion of land, to increase the value of the residue, and bring it into cultivation, and by its product to promote the commerce and wealth of the country, and thus to increase the ability of the Government to bear its burdens, it rests upon a principle such as a prudent proprietor would apply to the conduct of his own affairs. Thus far it is defensible; no further. The land grants to the new States for education must rest on the same general principle, together with this: that the new States, sovereigns like the old, admitted to be equal, before taking both the eminent and useful domain, entered into a contract with the other States that they would relieve from taxation the land within their borders while owned by the General Government, . . . This is the consideration for which land grants have been made to the new States; and a high price they have paid for all that has been granted for education purposes.

So far as the swamp or overflowed lands were granted,

they were granted upon the theory that the land was not only useless to the General Government until it was drained, but that it was injurious to the neighboring population; and that it was a duty on the part of the Federal Government to grant the land away, that it might be drained, and the nuisance which the swamp created upon the neighboring population thus be removed by the application of the overflowed land to that object.¹²⁵

BANKING: Lincoln

The question of the kind of banking system that should operate in the United States had long agitated American politicians. Should the federal government sponsor a national bank which would exercise broad powers over credit and currency? After Andrew Jackson killed the second Bank of the United States in the 1830's, Henry Clay Whigs labored for its revival. But from the mid-forties on, the Democrats' Independent Treasury system, in which the federal government managed its own funds, prevailed. In his early career Lincoln spoke regularly for the reestablishment of the Bank of the United States, but by 1848 he declared himself against reagitating the question. State-chartered banks continued as the principal financial institutions until the Civil War produced a monetary crisis.

As President, Lincoln passed on to Congress the recommendations of Secretary of Treasury Chase for dealing with the federal government's crying need to float wartime loans. The outcome was the adoption of the National Banking Acts of 1863 and 1864, which provided that national banking associations could be formed in local communities by groups of men subscribing to a certain amount in federal bonds. The associations could then issue bank notes up to 90% of the face value of the bonds, which were deposited as security with the United States Treasury. A federal comptroller of the treasury was given limited supervisory powers

over the management of the local banking associations. By the end of the war a federal statute drove *state bank notes* out of circulation. This measure, which established a degree of national control over currency and credit of the kind advocated earlier by Alexander Hamilton and Henry Clay, greatly redounded to the benefit of Northern financial interests.

BANKING: Davis

Davis's earliest exposure to the banking question came in his home state of Mississippi, where three state-sponsored banks fell into bankruptcy in the backwash of the panic of 1837. Although the Democratic party favored repudiation of the outstanding bonds of the bankrupt banks many of which were held abroad, Davis opposed both the repudiation and the wild banking practices that had brought on repudiation.

During the 1840's Davis quite naturally opposed Clay's proposal to revive the old Bank of the United States, for Davis considered it a constitutionally unwarranted extension of federal power. Like the Jacksonian Democrats, Davis favored instead the "separation of the fiscal affairs of the general government from all connection with banks." When the Polk administration pushed the Independent Treasury measure, Davis, then a member of the House, joined heartily in the vote that passed it.¹²⁶

Earlier in his career Davis had expressed his opposition to the issuing of paper money as "an unqualified evil to an agricultural people like ourselves [Mississippians]," producing cotton for export. "As we sell for the currency of the world, if we have a local currency which is cheap, we must pay the enhanced price of all that we buy, and thus lose the difference. Its action may be likened to selling by a large measure and buying by a small one."¹²⁷ But after becoming Confederate President, he was forced by the necessity of war to resort to the extensive use of paper money, the issuing of which brought calamitous consequences to the South's economy.

EDUCATION AND AGRICULTURE: Lincoln

Because his own schooling was meagre Lincoln held education in high regard. He believed with Jefferson that popular government could succeed only among an educated, enlightened people. In an early statement on education he said:

Upon the subject of education, not presuming—dictate any plan or system respecting it, I can only say that I view it as the most important subject which we as a people can be engaged in, that every man may receive, at least a moderate education, and thereby be enabled to read the histories of his own and other countries, by which he may duly appreciate the value of our free institutions, appears to be an object of vital importance, even on this account alone, to say nothing of the advantages and satisfaction to be derived from being able to read the scriptures and other works, both of a religious and moral nature, for themselves. For my part, I desire to see the time when education, and by its means, morality, sobriety, enterprise and industry, shall become more general than at present [1832]. . . .¹²⁸

As a Congressman Lincoln later gave support to continuing the system of reserving one section of each township for the support of the common schools. Still later, in a lecture on discoveries and inventions, Lincoln attributed much of human progress to the development of printing: "To immancipate the mind from this false and under estimate of itself, is the great task which printing came into the world to perform. It is difficult for us, *now* and *here*, to conceive how strong this slavery of the mind was, and how long it did, of necessity take to break it's [*sic*] shackles, and to get a habit of freedom of thought, established." America, as "a new country," was "most favorable to the immancipation of thought, and the consequent advancement of civilization and the arts."

Progress in America sprang from education, which permitted increasing freedom of thought.

In his speech to the Wisconsin State Agricultural Society in September, 1859 Lincoln rejected the "mud-sill" theory that "the education of laborers is not only useless, but pernicious, and dangerous. In fact, it is deemed a misfortune that laborers should have heads at all. . . . A Yankee who could invent a strong *handed* man without a head would receive the everlasting gratitude of the 'mud-sill' advocates." Lincoln saw farming as "a field for the profitable and agreeable combination of labor with cultivated thought . . . [where] the discovery of anything which is at once new and valuable . . . lightens and sweetens toil. . . . And how vast, and how varied a field is agriculture, for such discovery." Plants, soils, seeds, seasons, ditching, draining, plowing, harrowing, mowing, reaping, control of crop pests and diseases, implements, machines, animals, poultry, trees, and fruits, "each a world of study in itself," he remarked. He went on to say:

In all this, book-learning is available. A capacity, and taste, for reading, gives access to whatever has already been discovered by others. It is the key, to the already solved problems. And not only so. It gives a relish, and facility, for successfully pursuing the (yet) unsolved ones. The rudiments of science, are available, and highly valuable. Some knowledge of Botany assists in dealing with the vegetable world—with all growing crops. Chemistry assists in the analysis of soils, selection, and application of manures, and in numerous other ways. The mechanical branches of Natural Philosophy, are ready help in almost everything; but especially in reference to implements and machinery.

The thought recurs that education—cultivated thought—can best be combined with agricultural labor, or any labor, on the principle of *thorough* work—that careless, half per-

formed, slovenly work, makes no place for such combination.¹³⁰

It is not surprising that as President he proposed the creation of a government agricultural agency and that he cheerfully signed on May 15, 1862 the bill establishing the Department of Agriculture, which provided farmers with seed, plants, and information to improve farming methods, crops, and livestock.¹³¹ He also approved a bill in July, 1862 for the creation of the land-grant colleges which would give instruction in agriculture and mechanical arts. Through such federal grants of land many of the great state universities were established.

EDUCATION AND AGRICULTURE: Davis

When a bill to grant federal lands for establishing state agricultural colleges was brought before the Senate in the late 1850's, Davis objected strenuously. Even though he represented an agricultural state, his strict constructionist views led him into vociferous opposition. The Constitution did not assign power in the field of education to the central government, he maintained. It lay in the hands of the states. To the argument that the federal government operated educational institutions for military and naval officers, he replied that this function stemmed from the government's war power and did not imply any power over education in general. He said:

I have seen the growth of this proposition to do something for the agricultural interest, and I believed it was always delusive, not to say fraudulent. It needs no aid. The agricultural interest takes care of itself, and is drained to take care of itself of every pursuit in the country. I have looked upon it as a mere sham for other pursuits draining and to drain the agriculturist, to come and say,

"Let's do something for the agriculturist." From whose pocket is to be drawn the means of conferring this benefit? Mainly from the agriculturists themselves, who are then to receive a share of the whole sum which they are required to pay out. Agriculture needs no teaching by Congress. The wide extent of our country, the great variety of its soil and climate and product, render it impossible that there should be anything else than local teaching in relation to agriculture. The States are sovereign; and there is the care of the education of their youth, and the direction into any pursuits which the public may well require. This Government was instituted for no such purpose; and when it invades that prerogative of the States, it commits violence on the sovereignty of those by whom it is created.¹³²

He denounced a further provision in the bill, which

provides for working a forfeiture, attaching a penalty to a State which shall sell some part of the land and not establish a college, requiring it hereafter to refund the money. This Government cannot coerce a State; this Government cannot require of a State to pay money.¹³³

Finally he considered the proposal merely a poorly disguised effort

to cover an attempt to found colleges in the States for the benefit of the education of youth, to found them by the United States instead of by the sovereign people, who are the true guardians of their own youth, and in whose hand I much prefer to leave their custody.¹³⁴

A year later Davis opposed just as vigorously a bill to provide federal funds to support schools for indigent children in the District of Columbia. And again his opposition rested on his view

that the limited powers delegated to the United States by the Constitution did not convey power over education; nor did the federal government's power over the District extend to education. The only power granted was the power to establish a seat of government.¹³⁵

IMMIGRATION: Lincoln

In the mid-nineteenth century the sudden rush of immigrants flooded Northern cities and states with hundreds of thousands of newcomers. By 1860 aliens formed about one-third the population of Boston and Philadelphia, about one-half that of New York, Cincinnati, and Detroit, and a majority in Chicago, St. Louis, and Milwaukee. The steady flow of immigrants contributed much to cultural enrichment and to economic prosperity. It provided labor for construction, mills, mines, docks, and railroads; and it boosted the demand for land and goods. But natives often looked with suspicion at these foreigners who spoke a strange tongue, clannishly crowded together in squalid living quarters. Many of them attended Catholic mass, and they often drank heavily, they worked for low wages, and sometimes they discussed radical ideas. Suspicion developed at times into antipathy and outright hostility. Nativist antagonism, at first expressed in secret fraternal societies, soon took political form in the Native American or "Know Nothing" party, which opposed foreign influences in the United States and urged restrictions on further immigration. As the old political parties splintered in the storm loosed by the Kansas-Nebraska Act in 1854, the "Know-Nothing" party picked up remnants who sought new bearings in the political chaos.

Lincoln deprecated the nativist movement as early as September 1854. Less than a year later, he replied to Joshua Speed's inquiry as to his politics:

I am not a Know-Nothing. That is certain. How could I be? How can any one who abhors the oppression of negroes, be in favor of degrading classes of white people? Our progress in degeneracy appears to me to be pretty rapid. As a nation, we began by declaring that "*All men are created equal.*" We now practically read it, "all men are created equal, *except negroes.*" When the Know-Nothings get control, it will read, "all men are created equal, *except negroes, and foreigners, and catholics.*" When it comes to this, I should prefer migrating to some country where they make no pretence of loving liberty—to Russia, for instance, where despotism can be taken pure, and without the base alloy of hypocrisy [*sic*].¹³⁶

He was convinced, he said, that the Know-Nothings were "an ephemeral party, and would soon pass away."¹³⁷ Because Lincoln rejected the mud-sill view that men were permanently fixed to the condition of oppressed laborer and argued that the territories should be kept open for free white men, he found the idea of any inherent inferiority in the new immigrant repugnant. As an active politician, he also recognized the fact that a quarter million newly naturalized citizens per year would soon wield a decisive vote in elections. As a matter of fact, when he was a candidate for Senator in 1858 Lincoln wooed the German voters in Illinois by repeatedly pointing out to them the principles of the Declaration of Independence and the possibility that the spread of slavery would lessen opportunity for the free laborer to improve his condition.

In 1860 Lincoln's Republican platform included a plank calling for a liberal immigration policy. On his way to Washington in February, 1861 Lincoln addressed a German meeting in Cincinnati:

In regard to the Germans and foreigners, I esteem them no better than other people, nor any worse. (Cries of good.) It is not my nature, when I see a people borne

down by the weight of their shackles—the oppression of tyranny—to make their life more bitter by heaping upon them greater burdens; but rather would I do all in my power to raise the yoke, than to add anything that would tend to crush them.

Inasmuch as our country is extensive and new, and the countries of Europe are densely populated, if there are any abroad who desire to make this the land of their adoption, it is not in my heart to throw aught in their way, to prevent them from coming to the United States.¹³⁸

Under the impact of the Civil War immigration dropped from 427,000 persons in 1854 to 72,000 in 1862. The Homestead Act of that year permitted aliens as well as natives to obtain 160 acres of the public domain. The next year's labor shortage which resulted from the dual demand of battlefield and factory, promoted Lincoln in his December message to Congress to urge the adoption of a system for encouraging immigration. He said:

. . . there is a great deficiency of laborers in every field of industry, especially in agriculture and in our mines, as well of iron and coal as of the precious metals. While the demand for labor is increased here, tens of thousands of persons, destitute of remunerative occupation, are thronging our foreign consulates, and offering to emigrate to the United States if essential, but very cheap assistance, can be afforded them.¹³⁹

Congress responded in July, 1864 by passing an immigration act. This allowed the importation of contract-labor into the United States under regulations set by a newly created commissioner of immigration; the future wages and homesteads of the immigrants were mortgaged to repay the cost of emigration. Newcomers increased to 180,000 in 1865 and 332,000 in 1866. Such a policy assured American industry of an ample labor force for years to come.

IMMIGRATION: Davis

Davis held an unexpectedly open, liberal view on immigrants and immigration policy. He opposed all efforts to restrict them or to assign them to an inferior position in American society. In Davis's opinion the development of the country depended upon the continued, free influx of persons from abroad, who would provide the necessary labor, brains, and skill for developing the natural resources of America. As a Representative in Congress in 1845, Davis asserted:

When this country declared that a man was not the natural and perpetual subject of the Government under which he was born, and had maintained and established the right of foreigners to expatriate themselves, it contended, of course, in that very act for their admission here. . . . We must either make naturalization easy, or we must withhold it entirely, for if we admitted foreigners, and yet denied them the enjoyment of all political rights among us, we did but create enemies to our Government, and fill the country with discontented men. Let the principles of Native Americanism prevail, the foreigner would look in vain for happiness and liberty on the American shore.¹⁴⁰

For Davis the "doctrine of exclusion" constituted "a doctrine of barbarism. . . . Such a doctrine was never heard among the patriots of the Revolution." Davis urged a warm welcome for foreigners to a fresh opportunity in the New World.¹³⁸

In 1858 he told a New York audience that Congress should not impose further restrictions on the naturalization of immigrants:

Who wishes to withhold those privileges from foreigners? Nobody alleges it. But they say that the ballot-box must be protected from foreign votes.

Has Congress the right to say that foreigners shall not vote within the limits of your State? Are you willing to leave that to Congress?

[Cries of 'No, no, no' and applause.] In some of the States, by State legislation, foreigners are permitted to vote before they can become citizens under the naturalization laws. The naturalization laws are not, therefore, controlling over the question of suffrage. The power of Congress is limited to the establishment of a uniform rule of naturalization throughout the States. . . . Is the able-bodied man, who comes here to contribute to your national interest by building up your public works, or aiding in the erection of your architectural constructions, or who bears your flag in the hour of danger, and who bleeds and dies for your country, is he the pauper you desire to exclude? . . . But we do war against the use of terms that delude the people, and are intended to exclude the high-spirited and hard-working men who contribute to the bone, the sinew, and the wealth of our country.¹⁴¹

RECONSTRUCTION AND THE NEGRO: Lincoln

"What I do about slavery, and the colored race, I do because I believe it helps to save the Union," Lincoln wrote Horace Greeley in August 1862. A little more than three months later in his annual message to Congress, he declared:

I strongly favor colonization. And yet I wish to say there is an objection urged against free colored persons remaining in the country, which is largely imaginary, if not sometimes malicious.

It is insisted that their presence would injure, and displace white labor and white laborers. If there ever could be a proper time for mere catch arguments, that time

surely is not now. In times like the present, men should utter nothing for which they would not willingly be responsible through time and in eternity. Is it true, then, that colored people can displace any more white labor, by being free, than by remaining slaves? If they stay in their old places, they jostle no white laborers; if they leave their old places, they leave them open to white laborers. Logically, there is neither more nor less of it. Emancipation, even without deportation, would probably enhance the wages of white labor, and, very surely, would not reduce them. Thus, the customary amount of labor would still have to be performed; the freed people would surely not do more than their old proportion of it, and very probably, for a time, would do less, leaving an increased part to white laborers, bringing their labor into greater demands, and, consequently, enhancing the wages of it. With deportation, even to a limited extent, enhanced wages to white labor is mathematically certain. Labor is like any other commodity in the market—increase the demand for it, and you increase the price of it. Reduce the supply of black labor, by colonizing the black laborer out of the country, and by precisely so much, you increase the demand for, and wages of white labor.

But it is dreaded that the freed people will swarm forth, and cover the whole land? Are they not already in the land? Will liberation make them any more numerous? Equally distributed among the whites of the whole country, and there should be but one colored to seven whites. Could the one, in any way, greatly disturb the seven? . . . But why should emancipation south, send the free people north? People, of any color, seldom run, unless there is something to run from. *Heretofore*, colored people, to some extent, have fled north from bondage, and *now*, perhaps, from both bondage and destitution.

But if gradual emancipation and deportation be adopted, they will have neither to flee from. Their old masters will give them wages at least until new laborers can be procured; till new homes can be found for them, in congenial climes, and with people of their own blood and race. This proposition can be trusted on the mutual interests involved. And, in any event, cannot the north decide for itself, whether to receive them?

Again, as practice proves more than theory, in any case, has there been any irruption of colored people northward, because of the abolishment of slavery in this District last spring?¹⁴²

Long before the end of the war Lincoln began to give serious attention to restoring the Southern states to the Union. In August, 1863 he wrote to General N. P. Banks, who was in command in Louisiana that he "would be glad for" Louisiana

to make a new Constitution . . . adopting emancipation. . . .I think it would not be objectionable for her to adopt some practical system by which the two races could gradually live themselves out of their old relation to each other, and both come out better prepared for the new. Education for young blacks should be included in the plan. After all, the power, or element, of "contract" may be sufficient for this probationary period; and by its simplicity, and flexibility, stay for the better.¹⁴³

By this time he seems to have abandoned his earlier idea of Negro colonization elsewhere for some kind of necessary accommodation between the races with education and work contracts serving as the lubricating elements of the new machinery. Perhaps one reason for the change in Lincoln's point of view was the military service performed by freed slaves—there were 100,000 in the Union forces by December 1863. After this a thankful country could not graciously deport them.

Looking forward to “a resumption of national authority” in the Southern states, Lincoln, issued a proclamation along with his annual message of December 8, 1863 in which he outlined the procedure for restoring those states to their proper place in the Union. According to Lincoln’s plan, adherents of the Confederacy, with certain exceptions, would be granted full pardon if they swore that they would support the Constitution and the Union and they would accept the end of slavery. When in any state a group of persons from any state numbering one-tenth of the votes cast in the 1860 presidential election in that state agreed to take the oath, they could proceed to organize a state government which the President promised to recognize. He further pledged that “any provision which may be adopted . . . in relation to the freed people. . . , which shall recognize and declare their permanent freedom, provide for their education . . . will not be objected to by the national executive.”¹⁴⁴ Lincoln’s lenient plan was taken up and put into at least partial operation in four states—Louisiana, Arkansas, Tennessee, and Virginia. But many irregularities crept in, and by the time of Lincoln’s death in 1865 none of these was recognized as a full-fledged state in the Union. All except Tennessee were later forced to travel Congress’s much more punitive road to reconstruction. For the final session of Congress before the war ended, Lincoln recommended adoption of the Thirteenth Amendment to abolish slavery. He was pleased when Congress approved in late January of 1865. Lincoln was still not entirely clear in his own mind on the postwar status of the freed Negro. He did suggest privately that Louisiana might well consider “whether some of the colored people may not be let in [to vote]—as, for instance, the very intelligent, and especially those who have fought gallantly in our ranks. They would probably help . . . to keep the jewel of liberty within the family of freedom.”¹⁴⁵

But he did not insist upon Negro suffrage. He seemed, in fact, to sense the coming tragic hostility between blacks and whites and to recognize the present calamity of the war. He observed humbly in his Second Inaugural (March 4, 1865) that both Northerners and Southerners

read the same Bible, and pray to the same God; and each invokes His aid against the other. . . . The prayers of both could not be answered; that of neither has been answered fully. The Almighty has His own purposes. "Woe unto the world because of offences! for it must needs be that offences come; but woe unto that man by whom the offence cometh!" If we shall suppose that American Slavery is one of those offences which, in the providence of God, must needs come, but which having continued through His appointed time, He now wills to remove, and that He gives to both North and South, this terrible war, as the woe due to those by whom the offence came, shall we discern therein any departure from those divine attributes which the believers in a Living God always ascribe to Him? Fondly do we hope—ferently do we pray—that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue, until all the wealth piled by the bond-man's two hundred years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash, shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said: "the judgments of the Lord, are true and righteous altogether."

With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan—to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations.¹⁴⁶

In the last year of the war Lincoln might well disclaim any power

and wills also that we of the North as well as you of the South, shall pay fairly for our complicity in that wrong,

impartial history will find therein new cause to attest and revere the justice and goodness of God.¹⁴⁷

RECONSTRUCTION AND THE NEGRO: Davis

A month after the war ended in April, 1865 Davis was arrested and held in close confinement at Fortress Monroe, Virginia. Two years later he was released on bail. The charges against Davis were eventually withdrawn, although he pleaded to be tried for treason, for he believed that in open court he could publicly vindicate his course of action.

After a health-restoring sojourn in Canada, Cuba, and Europe, Davis returned to the South and assumed the presidency of a life insurance company, which failed within five years. He made several unsuccessful attempts to stimulate direct trade between the Gulf Coast and South America. Finally, he moved to "Beauvoir," an estate near Biloxi, Mississippi, given him by an admirer, where he spent his declining years compiling his ponderous two-volume apologia entitled "*The Rise and Fall of the Confederate Government* (1881) and a single volume, *A Short History of the Confederate States of America* (1890). When the Mississippi state legislature proposed to re-elect him to the United States Senate, he declined. He explained that he would never ask for pardon from the federal government, for to do so would admit guilt; and he maintained to the last that his action had been both constitutionally proper and legally correct.

In November, 1865 while still in prison, he wrote his wife his forebodings of reconstruction to come:

To make the best of the existing conditions is alike required by patriotism and practical sense. The negro is unquestionably to be at last the victim; because, when brought into conflict, the inferior race must be overborne; but it is possible to defer the conflict and to preserve a part of the kind relations heretofore existing between the

racess, when a life-long common interest united them. The object is worthy all the effort. To be successful, the policy must be as far removed from the conservatism that rejects everything new, as from the idealism which would retain nothing which is old.¹⁴⁸

In February, 1866 he told Mrs. Davis:

Like you, I feel sorry for the negroes. What has been done would gradually and measurably be corrected by the operation of the ordinary laws governing the relation of labor and capital, if they were let alone. But interference by those who have a theory to maintain by the manufacture of facts, must result in evil, evil only and continually. . . .

At every renewal of the assertion that the Southern people hate the negroes, my surprise is renewed; but a hostility, not now, or heretofore existing, between the races may be engendered by just such influences as are indicated. . . .¹⁴⁹

Jefferson Davis of course disapproved Northern plans for reconstruction of the South under a vengeful policy imposed by Washington, for the plans involved military rule, political disqualification of ex-Confederate leaders, Negro suffrage, and Republican dominance. He believed instead that with the end of the war

nothing remained to be done, but for the sovereigns, the people of each State, to assert their authority, and to restore order. If the principle of the sovereignty of the people—the cornerstone of our political institutions—had survived and was still in force, it was necessary only that the people of each State should reconsider and revoke their ordinances of secession, and again recognize the Con-

stitution of the United States as the supreme law of the land. This simple process would have placed the Union on its original basis, and have restored what had ceased to exist—the Union by consent. Unfortunately, such was not the intention of the conqueror. The Union of free wills and brotherly hearts, under a compact ordained by the people, was not his object. Henceforth there was to be established a Union by force. Sovereignty was to pass from the people to the Government of United States, and to be upheld by those who had furnished the money and the soldiers for the war.

Standing defenceless, stripped of their property, and exposed, as it was asserted, to the penalties of insurrection on the one hand, and that of treason on the other, the people of the late Confederate States were disfranchised; not their official representatives only, but large and influential classes; unconstitutional oaths were required of them before they could regain their civil rights; the negro population was invested with the right to vote, whereby governments were established in many of the States which were officered exclusively by blacks and by aliens elected to power by negro votes—governments whose sole purpose seemed to be to plunder and oppress the people under the form of law, and the record of whose misrule will forever form one of the most discreditable chapters in the history of the country.¹⁵⁰

For the most part Davis refrained from public expression of his views, other than in his books. While in prison in 1865-66 he expressed personal concern over the fate of the former slaves on his Brierfield plantation, which had been destroyed during the Vicksburg campaign. He said that he hoped that they would be helped to make the adjustment successfully to the new way of life, and he expressed his own frustration over being unable to go home

to look after them. He feared that the Negroes would be victimized in the post-war chaos.

Davis remained unreconstructed to the end. Uncomfortable and disturbed over the social and economic consequences of the war, he clung to his memories of "the cause." In the concluding paragraph of his last book, he reluctantly conceded:

In asserting the right of secession, it has not been my wish to incite its exercise. I recognize the fact that the war showed it to be impracticable; but this did not prove it to be wrong; and now that it may not be again attempted, and that the Union may promote the general welfare, it is needful that the truth, the whole truth, should be known, so that crimination and recrimination may forever cease; and then, on the basis of fraternity and faithful regard for the rights of the States, there may be written on the arch of the Union, *Esto perpetua*.¹⁵¹

Here Davis conceded the perpetuity of the Union that Lincoln had fought hard to preserve. The generation of Lincoln and Davis had clearly decided by arms as well as words that the Union should endure—that democratic government and human liberty "shall not perish from the earth."

Chronology

- 1820—Missouri Compromise over slavery in the territories adopted by Congress
- 1833—American Anti-Slavery Society organized
- 1834—Theodore Weld stirs anti-slavery sentiment in Ohio
- 1836—Congress adopts “gag rule” banning slavery debates, lasts until 1844
- 1847—Davis enters U.S. Senate, serves until 1851; Lincoln in House, 1847-49
- 1848—Treaty ending Mexican War extends U.S. territory to the Pacific
- 1850—Compromise of 1850 admits California as free state, enacts strict fugitive slave law, ends slave trade in District of Columbia, does not prohibit slavery in new regions obtained from Mexico, as called for by Wilmot Proviso
Congress grants land subsidy for building Illinois Central Railroad
- 1851—Harriet Beecher Stowe publishes *Uncle Tom's Cabin*; anti-slavery feeling grows
- 1853—Davis becomes Secretary of War, serves until 1857
- 1854—Kansas-Nebraska Act adopted in Congress, repeals Missouri Compromise, permits popular sovereignty on slavery issue in federal territories
Republican party organized in protest against Kansas-Nebraska Act
- 1855—Lincoln becomes active again in politics, opposes extension of slavery
- 1856—Democrats elect James Buchanan as President
- 1857—Dred Scott decision by U.S. Supreme Court opens territories to slavery;
Congress fights over admission of Kansas as slave state
Davis returns to U.S. Senate
- 1858—Lincoln runs for U.S. Senate, public debates with Douglas, loses
- 1859—John Brown's raid at Harper's Ferry alarms South over abolitionist aggression
- 1860—Democratic party splits; Republicans elect Lincoln as President over Douglas, Breckinridge and Bell; South Carolina secedes

- 1861—Davis withdraws from U.S. Senate, Jan. 21
Confederate States of America formed at Montgomery, Ala., under provisional constitution
Davis assumes office as provisional President of C.S.A., February 18
Lincoln assumes office as President of U.S.A., March 4
Fort Sumter fired upon April 12; Lincoln calls for volunteer soldiers, proclaims legal blockade of Southern ports, April 19
Confederate capital moved from Montgomery, Ala., to Richmond, Va., May 29
Congress passes protective tariff act
Martial law proclaimed in parts of North, military arrests follow
Davis elected permanent President of C.S.A., Oct. 6
- 1862—Davis assumes office as permanent President of C.S.A., Feb. 22
Martial law proclaimed for parts of South
Homestead Act passed; Department of Agriculture established; land-grant college act passed; Pacific railroad law passed granting land subsidies
- 1863—Emancipation Proclamation goes into effect Jan. 1
National Banking Act passed
Ex-Congressman C. L. Vallandigham sentenced by military court; protests raised against Lincoln's disregard of individual liberties
Major Union victories at Gettysburg and Vicksburg July 4 mark war's turning point
Lincoln delivers Gettysburg Address Nov. 19, restating war's purpose
Lincoln proclaims amnesty and reconstruction program for South
- 1864—Lincoln appoints Grant commander of all Union forces; drive on Richmond begins
New tariff act increases rates, gives manufacturers more protection
Lincoln reelected President over Democratic candidate George B. McClellan
Davis proposes freeing of slaves to become soldiers in Confederate army
- 1865—Thirteenth Amendment abolishing slavery adopted by Congress
Lincoln asks "charity for all" in second inaugural address, March 4
Lee's army surrenders at Appomattox, April 9
Lincoln assassinated, dies April 15
Davis captured by Union forces May 10, imprisoned at Fortress Monroe, released 1867, lives on until death in 1889.

Footnotes

Chapter I. SETTING AND PERSONAL BACKGROUND

1. Carl Schurz, *The Reminiscences of Carl Schurz* (3 vols., New York: McClure), II, 21.

Chapter II. IDEAS AND BELIEFS

1. Roy P. Basler, ed., *The Collected Works of Abraham Lincoln* (9 vols., New Brunswick: Rutgers University Press, 1953), I, 115; hereafter cited as *Lincoln, Col. Wks.*
2. *Ibid.*, I, 273.
3. *Ibid.*, II, 271.
4. *Ibid.*, V, 403-04.
5. *Ibid.*, II, 222.
6. *Ibid.*, IV, 270.
7. *Ibid.*, II, 220-21.
8. *Ibid.*, 532.
9. *Ibid.*, 493.
10. *Ibid.*, 493.
11. *Ibid.*, I, 112.
12. *Ibid.*, II, 385.
13. *Ibid.*, IV, 267-68.
14. *Ibid.*, I, 438.
15. *Ibid.*, 114.
16. *Ibid.*, VI, 78.
17. *Ibid.*, I, 113.
18. *Ibid.*, IV, 426.
19. *Ibid.*, 439.
20. Dunbar Rowland, ed., *Jefferson Davis, Constitutionalist: His Letters, Papers, and Speeches* (10 vols., Jackson: Mississippi Dept. of Archives and History, 1923), IV, 313; hereafter cited as *Davis, Papers.*
21. *Ibid.*, V, 4.
22. *Ibid.*, IV, 546.
23. *Ibid.*, II, 47-48.
24. *Ibid.*, 106.
25. *Lincoln, Col. Wks.*, II, 265.
26. *Ibid.*, 81.
27. *Ibid.*, I, 411-12.
28. *Ibid.*, III, 477-80.
29. *Ibid.*, II, 364.
30. *Ibid.*, III, 462.
31. *Ibid.*, IV, 7, 24-25.
32. *Ibid.*, V, 51-53.
33. *Ibid.*, VII, 259-60.
34. *Davis, Papers*, IX, 411.
35. *Ibid.*, IV, 183.
36. *Ibid.*, 49-50.
37. *Ibid.*, III, 357.

38. *Ibid.*, I, 13-15.
39. *Ibid.*, V, 51.
40. Lincoln, *Col. Wks.*, IV, 433-36.
41. *Ibid.*, 264-65.
42. *Ibid.*, 440.
43. Davis, *Papers*, V, 25.
44. *Ibid.*, IV, 254-55.
45. *Ibid.*, 255-56.
46. *Ibid.*, 258-59.
47. Jefferson Davis, *The Rise and Fall of the Confederate Government* (2 vols., New York; Appleton, 1881), I, 86-198.
48. Davis, *Papers*, IV, 147, 252.

Chapter III. PROBLEMS AND ISSUES

1. *Col. Wks.*, I, 74-76.
2. *Ibid.*, 348.
3. *Ibid.*, II, 20-22.
4. *Ibid.*, IV, 67.
5. *Ibid.*, II, 255.
6. *Ibid.*, II, 264.
7. *Ibid.*, II, 265-66.
8. *Ibid.*, II, 268-70.
9. *Ibid.*, II, 255.
10. *Ibid.*, II, 272.
11. *Ibid.*, II, 320.
12. *Ibid.*, II, 364.
13. *Ibid.*, II, 268.
14. *Ibid.*, II, 401.
15. *Ibid.*, II, 405.
16. *Ibid.*, II, 409.
17. *Ibid.*, II, 461-62.
18. *Ibid.*, III, 316.
19. *Ibid.*, II, 501.
20. *Ibid.*, III, 145-46.
21. *Ibid.*, III, 543-44.
22. *Ibid.*, III, 546.
23. *Ibid.*, III, 549-50.
24. *Ibid.*, II, 255-56.
25. *Ibid.*, II, 318.
26. Davis, *Papers*, IV, 72.
27. *Ibid.*, IV, 71.
28. *Ibid.*, I, 316-17.
29. *Ibid.*, IV, 522.
30. *Ibid.*, IV, 327-28.
31. *Ibid.*, I, 267.
32. *Ibid.*, I, 63.
33. *Ibid.*, V, 72.
34. *Ibid.*, IV, 63.
35. *Ibid.*, IV, 78-79.
36. *Ibid.*, I, 300.
37. *Ibid.*, 266.
38. *Ibid.*, 211.
39. *Ibid.*, 262.
40. *Ibid.*, 266-69.
41. *Ibid.*, 502-04.
42. *Ibid.*, 518, II, 72-73.
43. *Ibid.*, II, 29-30.
44. *Ibid.*, 41-42.
45. *Ibid.*, IV, 298.
46. *Ibid.*, 298-99.
47. *Ibid.*, III, 574.
48. *Ibid.*, IV, 72-73.
49. Lincoln, *Col. Wks.*, IV, 149-50.
50. *Ibid.*, 160.
51. *Ibid.*, 264-65.
52. *Ibid.*, 433-35.
53. *Ibid.*, IV, 267-68.
54. *Ibid.*, 259.
55. *Ibid.*, 262-71.
56. W. E. Dodd, *Statesmen of the Old South* (1911), pp. 216-17.
57. Davis, *Papers*, I, 265.

58. *Ibid.*, III, 315-32.
59. *Ibid.*, 295-305.
60. *Ibid.*, 337-38.
61. *Ibid.*, 338-39.
62. *Ibid.*, 343.
63. *Ibid.*, 343.
64. *Ibid.*, 358.
65. *Ibid.*, IV, 185.
66. *Ibid.*, 203-04.
67. *Ibid.*, 540-41.
68. *Ibid.*, 541-43.
69. *Ibid.*, 544-45.
70. *Ibid.*, 545-46.
71. *Ibid.*, 547-50.
72. Davis, *Papers*, V, 24.
73. *Ibid.*, 31.
74. *Ibid.*, 38.
75. *Ibid.*, 40-41.
76. *Ibid.*, IV, 44.
77. *Ibid.*, 44-45.
78. Lincoln, *Col. Wks.*, IV, 332.
79. *Ibid.*, 338-39.
80. *Ibid.*, 438-40.
81. *Ibid.*, V, 49-52.
82. *Ibid.*, 388-89.
83. *Ibid.*, 317-19.
84. *Ibid.*, 527-29.
85. *Ibid.*, VI, 531-34.
86. *Ibid.*, VII, 18-19.
87. Davis, *Papers*, IV, 49-53.
88. *Ibid.*, V, 202.
89. Lincoln, *Col. Wks.*, IV, 429-30.
90. *Ibid.*, VI, 264-65.
91. *Ibid.*, 266-67.
92. *Ibid.*, 369-70.
93. *Ibid.*, VII, 301-02.
94. *Ibid.*, VIII, 100-01.
95. Davis, *Papers*, V, 170.
96. *Ibid.*, 199.
97. W. E. Dodd, *Jefferson Davis* (Philadelphia: Jacobs & Co., 1907), pp. 291-92.
98. Lincoln, *Col. Wks.*, I, 408-16.
99. *Ibid.*, III, 487.
100. *Ibid.*, IV, 211-12.
101. Davis, *Papers*, I, 7.
102. *Ibid.*, 53.
103. *Ibid.*, II, 248.
104. *Ibid.*, IV, 530.
105. *Ibid.*, IV, 41-51.
106. *Ibid.*, 530.
107. Lincoln, *Col. Wks.*, I, 484-85.
108. Davis, *Papers*, II, 53.
109. *Ibid.*, 47-48.
110. *Ibid.*, III, 236-44.
111. *Ibid.*, I, 327.
112. *Ibid.*, I, 368-69.
113. *Ibid.*, 221-22.
114. *Ibid.*, II, 244.
115. *Ibid.*, 250.
116. *Ibid.*, III, 369.
117. *Ibid.*, II, 589.
118. Lincoln, *Col. Wks.*, I, 132-38, 307, 312-14; II, 26-27, 333-35; III, 352-55.
119. *Ibid.*, IV, 202-03.
120. Davis, *Papers*, I, 361.
121. *Ibid.*, 557-58.
122. *Ibid.*, 559.
123. *Ibid.*, 560-62.
124. *Ibid.*, III, 391.
125. *Ibid.*, 522.
126. *Ibid.*, I, 54.
127. *Ibid.*, 14.
128. Lincoln, *Col. Wks.*, I, 8.
129. *Ibid.*, III, 362-63.
130. *Ibid.*, 479-81.
131. *Ibid.*, V, 46, 526-27.
132. Davis, *Papers*, III, 519.

133. *Ibid.*, 519.
134. *Ibid.*, 520.
135. *Ibid.*, IV, 229-41.
136. Lincoln, *Col. Wks.*, II, 323.
137. *Ibid.*, 373.
138. *Ibid.*, IV, 202.
139. *Ibid.*, VII, 40.
140. Davis, *Papers*, I, 23-25.
141. *Ibid.*, III, 335-36.
142. Lincoln, *Col. Wks.*, V, 534-36.
143. *Ibid.*, VI, 364-65.
144. *Ibid.*, VII, 55.
145. *Ibid.*, 243.
146. *Ibid.*, VIII, 333.
147. *Ibid.*, VII, 282.
148. Davis, *Papers*, VII, 55.
149. *Ibid.*, 67.
150. Jefferson Davis, *A Short History of the Confederate States of America* (New York: Belford Co., 1890), p. 504.
151. *Ibid.*, pp. 504-505.

Suggested Readings

ABRAHAM LINCOLN

There is an enormous literature on Lincoln dealing with every conceivable aspect of his life. The biographies are skillfully analyzed by Benjamin P. Thomas in *Portrait for Posterity* (New Brunswick: Rutgers University Press, 1947) and Paul Angle has provided an excellent guide with his *A Shelf of Lincoln Books* (New Brunswick: Rutgers University Press, 1946) .

Lord Charnwood, *Abraham Lincoln*, 1917

Benjamin P. Thomas, *Abraham Lincoln, A Biography*, 1952

Paul Angle, *A Lincoln Reader*, 1947

Albert J. Beveridge, *Abraham Lincoln, 1809-1858*, 2 vols., 1926

John G. Nicolay and John Hay, *Abraham Lincoln*, 10 vols., 1890

James G. Randall, *Lincoln the President*, 4 vols. (The last volume was completed by Richard N. Current after Randall's death.)

Carl Sandburg, *Abraham Lincoln, the Prairie Years*, 2 vols., 1926

Abraham Lincoln, the War Years, 4 vols., 1939

Roy P. Basler, ed., *The Collected Works of Abraham Lincoln*, 9 vols.

John G. Nicolay and John Hay, *Abraham Lincoln's Complete Works*, 2 vols., 1902

JEFFERSON DAVIS

Many of Davis's biographers, with a few notable exceptions such as the Englishman Robert McElroy, have been understandably Southerners, who write sympathetically of him in a pro-South vein.

Elisabeth B. Cutting, *Jefferson Davis, Political Soldier*, 1930

Varina H. Davis, *Jefferson Davis, A Memoir by His Wife*, 2 vols., 1890

William E. Dodd, *Jefferson Davis*, 1907

Hamilton J. Eckenrode, *Jefferson Davis, President of the South*, 1930

Walter L. Fleming—many articles and monographs on various phases of Davis's life.

Robert McElroy, *Jefferson Davis, the Real and the Unreal*, 2 vols., 1937

Hudson Strode, *Jefferson Davis, American Patriot* (Vol. I, 1955) follows Davis to his election as *Confedcrate President* (Vol. II, 1959) which takes his life to 1863. A third volume is still to be published.

Allen Tate, *Jefferson Davis, His Rise and Fall*, 1929

Jefferson Davis, *The Rise and Fall of the Confederate Government*, 2 vols., 1881

Jefferson Davis, *A Short History of the Confederate States of America*, 1890

Dunbar Rowland, ed., *Jefferson Davis, Constitutionalist, His Letters, Papers and Speeches*, 10 vols., 1923

PREPARED FOR PUBLICATION UNDER THE
EDITORIAL SUPERVISION OF MARGARET WATERMAN
DESIGNED AND MANUFACTURED UNDER THE
TYPOGRAPHICAL DIRECTION OF D. REX EATON
COMPOSITION, PRINTING AND BINDING BY
JACKSON TYPESETTING COMPANY OF JACKSON, MICHIGAN
HOLLERITH-WHITELOCK, INC., OF JACKSON
AND THE DEAN-HICKS COMPANY OF GRAND RAPIDS
THE TEXT IS SET IN 10 POINT BASKERVILLE
AND THE HEADINGS IN 14 POINT BAUER FORTUNE BOLD



